



SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
Thursday, March 20, 2008 at 9:00 am
1st Floor Conference Room
1926 Victoria Avenue, Fort Myers, FL 33901

AGENDA

INVOCATION

PLEDGE OF ALLEGIANCE

ROLL CALL – Ms. Nichole Gwinnett

- 1. AGENDA**
- 2. MINUTES OF FEBRUARY 21, 2008**
- 3. CONSENT AGENDA**
 - (a) Intergovernmental Coordination and Review
 - (b) Financial Statement for February 29, 2008
 - (c) SunTrust Bank DRI – Development Order Review
- 4. ADMINISTRATIVE AGENDA**
 - (a) Government Owned Conservation Lands Update – **Mr. Ken Heatherington**
 - (b) Visioning Update – **Mr. Ken Heatherington**
 - (c) 2007 SWFRPC Annual Report – **Mr. Ken Heatherington**
- 5. REGIONAL ISSUES**
 - (a) Impact of Agriculture on Southwest Florida – **Dr. Fritz Roka, IFAS (9:45 am)**
 - (b) Lower West Coast Watersheds Subcommittee Report – **Mayor Mick Denham**
 - (c) Legislative Subcommittee Report – **Commissioner Jim Coletta**
 - Former Representative J. Dudley Goodlette
 - Chairman Bill Barton, SWF Expressway Authority
 - (d) Legislative Update – **Mr. Ken Heatherington**
 - (e) Other Emerging Regional Issues
- 6. PUBLIC COMMENTS**
- 7. DIRECTOR'S COMMENTS**
- 8. STATE AGENCIES COMMENTS/REPORTS**
- 9. COUNCIL ATTORNEY'S COMMENTS**
- 10. COUNCIL MEMBERS' COMMENTS**
- 11. ADJOURN**

NEXT MEETING DATE

April 17, 2008

NOTES:

- **The Council's Legislative Subcommittee is scheduled to meet immediately after the Council meeting (location to be announced).**
- **The Council's Lower West Coast Watersheds Subcommittee will be meeting immediately following the Council meeting in the conference room.**

In accordance with the Americans with Disabilities Act (ADA), any person requiring special accommodations to participate in this meeting should contact Ms. Deborah Kooi at the Southwest Florida Regional Planning Council 48 hours prior to the meeting by calling (239) 338-2550 ext. #210; if you are hearing or speech impaired call (800) 955-8770 Voice/(800) 955-8771 TDD. Or email dkooi@swfrpc.org.

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL (SWFRPC) ACRONYMS

ABM - Agency for Bay Management - Estero Bay Agency on Bay Management

ADA - Application for Development Approval

ADA - Americans with Disabilities Act

AMDA -Application for Master Development Approval

BEER - Bureau of Economic Business and Research at the University of Florida

BLID - Binding Letter of DRI Status

BLIM - Binding Letter of Modification to a DRI with Vested Rights

BLIVR -Binding Letter of Vested Rights Status

BPCC -Bicycle/Pedestrian Coordinating Committee

CAC - Citizens Advisory Committee

CAO - City/County Administrator Officers

CDBG - Community Development Block Grant

CDC - Certified Development Corporation (a.k.a. RDC)

CEDS - Comprehensive Economic Development Strategy (a.k.a. OEDP)

CHNEP - Charlotte Harbor National Estuary Program

CTC - Community Transportation Coordinator

CTD - Commission for the Transportation Disadvantaged

CUTR - Center for Urban Transportation Research

DCA - Department of Community Affairs

DEP - Department of Environmental Protection

DO - Development Order

DOPA - Designated Official Planning Agency (i.e. MPO, RPC, County, etc.)

EDA - Economic Development Administration

EDC - Economic Development Coalition

EDD - Economic Development District

EPA – Environmental Protection Agency

FAC - Florida Association of Counties

FACTS - Florida Association of CTCs

FAW - Florida Administrative Weekly

FCTS - Florida Coordinated Transportation System

FDC&F -Florida Department of Children and Families (a.k.a. HRS)

FDEA - Florida Department of Elder Affairs

FDLES - Florida Department of Labor and Employment Security

FDOT - Florida Department of Transportation

FHREDI - Florida Heartland Rural Economic Development Initiative

FIAM – Fiscal Impact Analysis Model

FLC - Florida League of Cities

FQD - Florida Quality Development

FRCA -Florida Regional Planning Councils Association

FTA - Florida Transit Association

IC&R - Intergovernmental Coordination and Review

IFAS - Institute of Food and Agricultural Sciences at the University of Florida

JLCB - Joint Local Coordinating Boards of Glades & Hendry Counties

JPA - Joint Participation Agreement

JSA - Joint Service Area of Glades & Hendry Counties

LCB - Local Coordinating Board for the Transportation Disadvantaged

LEPC - Local Emergency Planning Committee

MOA - Memorandum of Agreement

MPO - Metropolitan Planning Organization

MPOAC - Metropolitan Planning Organization Advisory Council

MPOCAC - Metropolitan Planning Organization Citizens Advisory Committee

MPOTAC - Metropolitan Planning Organization Technical Advisory Committee

NARC - National Association of Regional Councils

NOPC - Notice of Proposed Change

OEDP - Overall Economic Development Program

PDA - Preliminary Development Agreement

REMI – Regional Economic Modeling Incorporated

RFB - Request for Bids

RFP - Request for Proposals

RPC - Regional Planning Council

SHIP - State Housing Initiatives Partnership

SRPP – Strategic Regional Policy Plan

TAC - Technical Advisory Committee

TDC - Transportation Disadvantaged Commission (a.k.a. CTD)

TDPN - Transportation Disadvantaged Planners Network

TDSP - Transportation Disadvantaged Service Plans

USDA - US Department of Agriculture

WMD - Water Management District (SFWMD and SWFWMD)

_____ Agenda
_____ Item

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Minutes

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**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
FEBRUARY 21, 2008**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **February 21, 2008** at the Southwest Florida Regional Planning Council at 1926 Victoria Avenue in Fort Myers, Florida. The meeting was called to order at **9:07 am** by **Chairman Andrea Messina**. **Commissioner Kenneth Jones** led the Prayer and **Commissioner Jim Coletta** led the Pledge of Allegiance. Administrative Services Specialist Nichole Gwinnett conducted the roll call.

MEMBERS PRESENT

Charlotte County: Commissioner Adam Cummings, Commissioner Tom Moore, Ms. Andrea Messina, Council member Marilyn Smith-Mooney, Mr. Alan LeBeau

Collier County: Commissioner Jim Coletta, Commissioner Frank Halas, Ms. Patricia Carroll

Glades County: Commissioner Kenneth “Butch” Jones, Commissioner Paul Beck, Dr. Edward Elkowitz

Hendry County: Commissioner Janet Taylor, Mayor Paul Puletti, Mr. Melvin Karau

Lee County: Commissioner Brian Bigelow, Commissioner Bob Janes, Vice Mayor Larry Kiker, Mayor Mick Denham, Mayor Jay Arend, Mayor Jim Humphrey, Mayor Eric Feichthaler

Sarasota County: Commissioner Jon Thaxton for Commissioner Shannon Staub, Commissioner Jim Blucher, Mr. David Farley

Ex-Officio Members: Mr. Johnny Limbaugh - FDOT, Mr. Jon Iglehart - FDEP, Mr. Phil Flood - SFWMD, Ms. Dianne Davies, SWFWMD

MEMBERS ABSENT

Charlotte County: None

Collier County: Councilman Charles Kiester, Ms. Laura Holquist, Councilman Bill Willkomm

Glades County: Councilman Michael Brantley

Hendry County: Commissioner Bill Maddox, Mayor Mali Chamness

Lee County: None

Sarasota County: Commissioner Paul Mercier, Councilman Ernie Zavodnyik, Mr. George Mazzarantani

Ex-Officio Membership: Ms. Janet Watermeier - Watermeier Consulting & Property Services

INTRODUCTIONS OF NEW MEMBERS

Chairman Messina introduced Commissioner Bob Janes, Lee County BOCC as the Council's newest member.

AGENDA ITEM #1 AGENDA

Chairman Messina noted that Consent Agenda Item #3(g) Harborview Substantial Deviation - Request for Sufficiency Response Extension was a walk-on item; however it was included in your agenda packets. Also, due to time constraints it has been requested that Agenda Items #6(a) and 6(b) be moved up to before Agenda Item #5(a).

Mayor Humphrey moved and Commissioner Moore seconded to approve the agenda as amended. The motion carried unanimously.

AGENDA ITEM #2 MINUTES OF JANUARY 17, 2008

Commissioner Janes moved and Mr. Farley seconded to approve the minutes of January 21, 2008. The motion carried unanimously.

AGENDA ITEM #3 CONSENT AGENDA

Mayor Humphrey moved and Commissioner Moore seconded to approve the consent agenda as amended: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for January 31, 2008; Agenda Item #3(c) Palmer Ranch Increment III NOPC - Lowes Home Improvement; Agenda Item #3(d) Sarasota County Comprehensive Plan Amendment (DCA 08-1); Agenda Item #3(e) City of Fort Myers Comprehensive Plan Amendment Airside Plaza DRI (DCA 08-1D); Agenda Item #3(f) Tradeport DRI - Request for Sufficiency Response Extension; and #3(g) Harborview Substantial Deviation Request for Sufficiency Response Extension. The motion carried unanimously.

AGENDA ITEM #4(a) Executive Committee Report - Chairman Andrea Messina

Chairman Messina gave the Executive Committee report.

Commissioner Janes moved and Mr. Farley seconded to approve the job description as presented. The motion carried unanimously.

Chairman Messina asked the Council to give the Executive Committee the authority to enter into the contract with Mr. Heatherington.

Ms. Donley reviewed the Executive Director's contract as per the direction of the Executive Committee.

Commissioner Janes asked if the contract is comparable with other similar positions throughout the state. Chairman Messina explained that one of the items is a comparable salary study. However, the committee reviewed his previous salary and went with a percentage increase.

Chairman Messina explained that the committee discussed the issue of a percentage salary increase and cap and felt that since the cost of living (COLA) increase was eliminated, that future salary changes would be based on a performance appraisal based system that Mr. Heatherington would receive a certain percentage based on his performance.

Chairman Messina explained that the committee would not even expect a 10% pay increase in most years because the committee would want to look at the economic situation as well as the other employee compensations within the organization.

Commissioner Blucher reminded the members that the COLA automatic increase was removed and is based on performance 0-10%.

Council member Smith-Mooney moved and Mayor Feichthaler seconded to give the Executive Committee the authority to enter into the contract.

Commissioner Bigelow asked if members of the Council would be able to discuss issues of the job description and the Executive Director's contract at the time of the annual review with members of the Executive Committee without violating the Sunshine Laws. Ms. Donley explained that he is welcome to attend the Executive Committee meeting when they discuss the Executive Director's annual review in either September or October.

Chairman Messina stated that any Council member can go on record at any time making comments by either written or oral.

Commissioner Blucher suggested asking Council members for feedback that at the time of appraisal.

The motion carried unanimously.

**AGENDA ITEM #4(b)
2008 Strategic Plan - Connecting the Regions - Mr. Ken Heatherington**

Mr. Heatherington explained that he has arranged presentations for the following months:

- March – Mr. Bill Hammond – Connecting with Nature
- April – Impact of Agriculture on Southwest Florida
- May – Celebration of Southwest Florida Native American Culture

Mr. Heatherington asked for volunteers for a steering committee since Collier, Glades, and Hendry Counties have great impacts. The school boards, the Chamber of Southwest Florida, Hodges University, FGCU and ECC are willing to participate as well.

Commissioner Coletta stated that he is very interested in participating, but the problem that he sees is that you can only have one representative from each county; otherwise, there will be the violation with the Sunshine Law. He suggested that a breakdown be sent by email and he would like to give Commissioner Halas a chance to respond.

Mr. Heatherington stated that there would be a legislative wrap-up also in May. He has had discussions with Representative Richter and Senator Saunders regarding their attendance.

- June – Continuation of the May Legislative Wrap-Up & Regional Visioning
- July – 2008 Council Retreat at the Babcock Wilderness Lodge w/Eco Tour
- August – Energy for the Future which includes the Green Energy
- September – Green Technology/Building
- October – Regional & Metropolitan Coordinating Conference in Sebring
- November – Regional Transportation Needs

Dr. Elkowitz stated that since the Council will be having a heritage month for Native Americans, when would the other minorities (blacks, Hispanics, etc.) be highlighted. Mr. Heatherington explained that during his discussions with Ms. Williams at Hodges University, it was agreed that there is a need to celebrate all communities. He explained that this will be a topic of discussion in the future.

Mr. Heatherington reviewed the item as presented in the packet.

Commissioner Thaxton stated that he has attended the “One Bay” meetings in Tampa and noted that one of the most important issues that need to be looked at carefully is the finances to cover the increase of population. Mr. Heatherington stated that he agreed with Commissioner Thaxton.

Mayor Denham stated that he has had discussions with many people recently predicting that we are at the beginning of a 7 year drought period. Conservation is the means by which we currently tackle the drought issue, but that may not be enough if you look at any plans for 5-10 years and the water quantity is going to be a major issue for the Southwest Florida Region.

Mr. Heatherington explained that water has been identified as being one of the infrastructure issues and that it is up to the RPCs as to decide what number of issues you will address, water certainly being one of them. In the short term, 7 to 10 years may be important to address our water supply issue and, in the long term, we may also address climate change and the fact that we may lose parts of the coastline in the next 50 years.

Commissioner Bigelow stated that “we are on the road to ruin.” We keep approving large communities such Ave Maria and Babcock and Estero Bay is nearly dead. We need to be more educated on urban sprawl and feels that Commissioner Thaxton has said it best “what are we going to do with the people that keep coming.”

Commissioner Cummings stated that there have been three issues brought up that we need to proceed with:

- ❖ **Water** – One of the waterways that we need to keep our eyes on is the Peace River and Myakka River portion of the Charlotte Harbor basin. Looking at the long term plans for the water management district and the water supply authority, there are over \$1 billion worth of projects and going from roughly 25 million gallons per day annual average withdrawals to approximately 100 million gallons per day annual average withdrawals. Even at the current withdrawals (25 million gallons) we are getting rid of what had been held out as environmental protection for the withdrawals, 10% was the magic number. It is presently at 12% and the cutoff had been 100 cubic feet per second. The cutoff now is 90 cubic feet per second and the reason is because if you get down to 86 cubic feet per second you start sucking too much saltwater into the intake structure and the plant can’t treat it. It is not an environmental protection but an operational limitation.
- ❖ **Vision** – One of the big concerns he had with this is that when this was brought up before the community was handed the growth projections and the comprehensive plans were never reviewed. We do have the Growth Management Act and laws that we are required to follow. We need to look at visioning within the context of that and what tools do we have; look at the economics of it; the growth management tools that we pick to try to steer that growth in a more cost effective manner as in not doing urban sprawl; and making better use of the infrastructure that is already in place.
- ❖ **Budget** – We need to find out what is the most cost effective way to meet the needs of our community without taxing people out of their homes, which means looking at new taxing structures.

AGENDA ITEM #4(c)

FRCA Policy Board Meeting Update – Mayor Jim Humphrey, FRCA 2nd Vice President

Mayor Humphrey gave a report on the FRCA Policy Board meeting. He explained that one of the discussions was a major change to Section 186.507 F.S. which if adopted each RPC may prepare and adopt a Strategic Regional Policy Plan that will be based on and contain future regional elements. The criteria includes three public hearings and a stakeholder workshop with the various agencies because, once adopted, the other agencies will be required to not only support it but will be required to have their plans consistent with and support the implementation of the regional vision.

Chairman Messina stated that she has asked Mr. Heatherington to either send links via email of the legislation and the Century Commission so the members will have the information to review.

Mr. Heatherington stated that Cambridge Systematics is the statewide consultant for FDOT and they are involved, in part, in the Heartland 2060 Plan and MyRegion.Org, etc. Mr. Heatherington stated that he would ask that if this Council decides to move forward with its vision that FDOT look into the opportunity of having Cambridge Systematics provide consulting services to this region as well. Mr. Limbaugh stated that at the Tallahassee level, FDOT has funds set aside for assisting with regional visions so there are some opportunities, if there is a proposal set forth, FDOT can participate at some level.

AGENDA ITEM #4(d)
Appointment of a SWFRPC Representative to the CHNEP Policy Committee - Mr. Ken Heatherington

Mr. Heatherington reviewed the item as presented.

Mayor Feichthaler volunteered to represent the Council as its representative on the CHNEP's Policy Committee.

AGENDA ITEM #6(a)
SFWMD Northern Everglades Project Presentation - Ms. Agnes Ramsey, SFWMD

Ms. Ramsey gave a PowerPoint presentation on the Northern Everglades project.

Mayor Denham asked if there is going to be a water quality component to the C-43 reservoir. Ms. Ramsey explained that the C-43 water quality project is separate from that particular program. Mayor Denham stated that before the water from the C-43 is discharged into the Caloosahatchee River there will be a means of cleansing that water. Ms. Ramsey explained that the water will be clean before it reaches the estuary.

Mayor Denham stated that the C-43 reservoir is primarily to protect the estuary and the estuary communities and asked but what are the benefits for Glades County.

Commissioner Jones explained that Glades County didn't have any input on the \$38 million deal because it was already a done deal. The three most developable parcels of land within Glades County were the three parcels where the reservoirs are (Ortona, Lakeport, and Buckhead Ridge). At the county's budget workshop last year, they had to cut approximately \$1 million out of an already small budget and now, in addition to that, due to the Governor's amendment, we have to cut an additional \$532,000 are faced with the prospect of layoffs; deputies, EMS, county employees, etc. because we have simply ran out of money and we are not that far from becoming a welfare county.

Mr. LeBeau asked what is the percentage of land is owned by government entities (SFWMD, Corps of Engineers, State, etc.) in Glades County. Commissioner Jones replied that Commissioner Beck has those figures. Mr. LeBeau stated that he would like to know how much land is owned by government entities in each of the counties throughout Southwest Florida.

Commissioner Beck explained that the amount of property that the SFWMD owns in Glades County is 8,200 acres, not including the 1,900 acres that was recently purchased; however, there are other government agencies that own property throughout the county.

Commissioner Beck explained that Glades County's total ad valorem collected this year is going to be approximately \$7,800,000 and that this year, with the amendment that was passed in January; we are losing another \$532,000 which is 6.8% of their total ad valorem.

Commissioner Bigelow asked Ms. Ramsey what is the percentage of the water coming out of the outfalls from C-43 on an annual basis. Ms. Ramsey replied in a year like this year not enough, but at a maximum it reaches 12,500 cubic feet per second (cfs) but she doesn't know the percentage. Commissioner Bigelow stated that he believes that it is roughly 52% of the waters that the SFWMD manages that are discharged out of Lake Okeechobee.

AGENDA ITEM #6(b)

SWFRPC Resolution #2008-01 - Regarding Land Procurement in Glades County by the SFWMD and the US Corps of Engineers - Mr. Ken Heatherington

Mr. Heatherington reviewed the resolution.

Commissioner Cummings stated that he believes that one of the things that we need to pay attention to is that we don't start comparing "apples to oranges;" because it depends on the develop ability of the lands surrounding the land being purchased and set aside. There is evidence that the value of surrounding land increases most of the time by more than the decrease you receive by purchasing a piece of the preserved land and setting it aside and taking it off of the tax roles. It would be self-evident that Glades and/or Hendry County where they don't have the same development potential that rule would not apply. But in a place like Charlotte County, it has been shown time and time again that acquiring preserved land increases your tax base it. He then stated that he wouldn't want to dampen the enthusiasm for land acquisition in places like Charlotte County.

Commissioner Cummings stated that he supports the resolution and feels that it applies to the areas in question but feels that it doesn't apply universally; particularly in places close to the coast that have development potential.

Commissioner Beck stated that he appreciates the Council's support and realizes that it is a regional issue and not just a Glades County issue.

Commissioner Beck moved and Commissioner Taylor seconded to approve SWFRPC Resolution #2008-01. The motion carried unanimously.

AGENDA ITEM #5(c)

Legislative Subcommittee Report - Commissioner Jim Coletta

Commissioner Coletta reviewed the item as presented. He also introduced the following guests:

- Mr. Dick Keen, Senator Mel Martinez's Aide - Naples Office
- Ms. Diane McGee, Regional Director for US Senator Bill Nelson

Commissioner Coletta moved and Commissioner Blucher seconded to approve the SWFRPC 2008 Legislative Position Statement. The motion carried unanimously.

AGENDA ITEM #5(a)

The Chamber of Southwest Florida and The SW Florida Leadership Foundation Presentation - Mr. Steve Tirey, President/CEO, The Chamber of Southwest Florida

Mr. Tirey indicated that due to time schedules that the two guests that were scheduled were unable to stay and he suggested that the Council have time on their agenda specifically set aside for speakers and requested that both speakers be able to reschedule to return at a future meeting to give their presentations. He then gave a brief verbal presentation of the Chamber of Southwest Florida and the Southwest Florida Leadership Foundation as described in the agenda packet and available handouts.

Chairman Messina stated to Mr. Tirey to extend the Council's apologies to the speakers.

AGENDA ITEM #5(b)

Lower West Coast Watersheds Subcommittee Report - Mayor Mick Denham

Mayor Denham gave a status report on the subcommittee's efforts.

Ms. Donley explained that staff is in the process of applying for DEP's Section 319 grant and RPC staff will be working with CHNEP technical staff to make sure that we get all the science correct and then staff will be consulting with city/county staff to make sure that all of the details are correct. The grant is due to Tallahassee at the end of May.

Both Chairman Messina and Mr. Heatherington thanked Mayor Denham for his efforts with the subcommittee.

AGENDA ITEM #5(d)

Legislative Update - Mr. Ken Heatherington

Mr. Heatherington reviewed the item as presented. He also thanked both Mr. Keen and Ms. McGee for their attendance today and encouraged the members to stay after the meeting and participate in the meeting immediately following the meeting with Mr. Keen and Ms. McGee.

Mayor Arend explained that there will be several lobbying opportunities for those who will be in Tallahassee.

AGENDA ITEM #5(e)
Other Emerging Regional Issues

Ms. Corbett gave a review of the SWFRPC Green Team as contained in the agenda packet. She then approached the members with a proposal of sending out the member's agenda packets via email instead of through the mail to cut back on cost of shipping and paper.

Chairman Messina asked if staff would provide power supply for the members to bring in laptops. Ms. Corbett explained that members would be able to print out only the specific pages from the agenda that they would need instead of the complete agenda packet it would save paper and staff costs. She explained that she would compile a proposal that would list the actual costs per year and submit at the March meeting for the Council's consideration.

Commissioner Thaxton stated that he was ready to begin with the electronic agenda packets.

Chairman Messina stated that she believes that some members will want to bring in their laptops and that there will be need to be adequate power supplies. Ms. Corbett suggested also projecting the agenda packet's pages up on the projection screen and going through the packet as the meeting proceeds.

Commissioner Cummings stated that the difference between having either a laptop or a paper copy per just having it projected up on a screen is being able to look at different pages from what is currently being discussed; however, he supports the electronic version.

Mr. Heatherington suggested polling the members and asking what their preference is with an explanation of what the Council is proposing.

Mr. Heatherington continued reviewing the items contained in the packet.

AGENDA ITEM #7
PUBLIC COMMENTS

No public comments were made at this time.

AGENDA ITEM #8
DIRECTOR'S COMMENTS

Mr. Heatherington invited members to have a brief discussion with both Mr. Keen and Ms. McGee in the 2nd floor meeting room on transportation funding.

AGENDA ITEM #9
STATE AGENCIES COMMENTS/REPORTS

No State agency comments or reports were made at this time.

**AGENDA ITEM #10
COUNCIL ATTORNEY'S COMMENTS**

Counsel Donley had no comments at this time.

**AGENDA ITEM #11
COUNCIL MEMBERS' COMMENTS**

Ms. Carroll thanked all of the cities and counties who had worked with the school districts on the Public School Element within their comprehensive plans which are due in March.

Council member Smith-Mooney suggested adding the Charlotte County Airports commercial flight information in the Economic Views newsletter.

**AGENDA ITEM #13
ADJOURN**

The meeting adjourned at 12:20 pm.

Commissioner Paul Beck, Secretary

The meeting was duly advertised in the February 1, 2008 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 34, Number 05.

_____ Agenda
_____ Item

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Consent Agenda

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CONSENT AGENDA

Agenda Item #3(a) – Intergovernmental Coordination and Review

Approval of the administrative action clearinghouse review items.

Agenda Item #3(b) – Financial Statement for February 29, 2008

Approve the financial statement for February 29, 2008 as presented.

Agenda Item #3(c) – SunTrust Bank DRI – Development Order Review

Approve the development order as presented.

RECOMMENDED ACTION: Approve consent agenda as presented.

03/2008

_____ Agenda
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Intergovernmental
Coordination & Review

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Project Review and Coordination Regional Clearinghouse Review

The attached report summarizes the project notifications received from various governmental and non-governmental agencies seeking federal assistance or permits for the period beginning February 1, 2008 and ending February 29, 2008.

The staff of the Southwest Florida Regional Planning Council reviews various proposals, Notifications of Intent, Preapplications, permit applications, and Environmental Impact Statements for compliance with regional goals, objectives, and policies of the Regional Comprehensive Policy Plan. The staff reviews such items in accordance with the Florida Intergovernmental Coordination and Review Process (Chapter 29I-5, F.A.C.) and adopted regional clearinghouse procedures.

Council staff reviews projects under the following four designations:

Less Than Regionally Significant and Consistent - no further review of the project can be expected from Council.

Less Than Regionally Significant and Inconsistent - Council does not find the project to be of regional importance, but notes certain concerns as part of its continued monitoring for cumulative impacts within the noted goal areas.

Regionally Significant and Consistent - Project is of regional importance and appears to be consistent with Regional goals, objectives and policies.

Regionally Significant and Inconsistent - Project is of regional importance and appears not to be consistent with Regional goals, objectives, and policies. Council will oppose the project as submitted, but is willing to participate in any efforts to modify the project to mitigate the concerns.

The report includes the SWFRPC number, the applicant name, project description, location, funding or permitting agency, and the amount of federal funding, when applicable. It also includes the comments provided by staff to the applicant and to the State Clearinghouse (Office of Planning and Budgeting) in Tallahassee.

RECOMMENDED ACTION: Approval of the administrative action on Clearinghouse Review items.

03/2008

ICR Council - 2000/08

SWFRPC #	Name1	Name2	Location	Project Description	Funding Agent	Funding Amount	Council Comments
2007-060	Dr. Lainie Edwards	FDEP - Bureau of Beaches & Coastal Systems	Sarasota County	Longboat Key Permeable Adjustable Groins at the Islander Club in Sarasota County, Florida.			Regionally Significant and Consistent
2007-065	Mr. Steven Myers	Lee County Transit	Lee County	Lee County Transit - Rural operating assistance for Lee County, Florida under USC Section 5311 Non-Urbanized Area Formula Program.	Federal Transit Administration	\$274,000.00	Regionally Significant and Consistent
2007-069	Ms. Kandyce Ericson	School District of Lee County	Lee County	School District of Lee County - Teaching American History, Conflict, Causes, Compromise and Consequences	US Department of Education	\$836,226.40	Regionally Significant and Consistent
2007-070	Ms. Cherry Haynes	City of Sarasota & Sarasota County Gov.	Sarasota County	Department of Housing and Urban Development - Community Development Block Grants (CDBG) - Janie Poe Public Housing Redevelopment Project in Sarasota, Sarasota County, Florida.			Regionally Significant and Consistent
2007-071	Ms. Meg Engelen	Sarasota County Transportation	Sarasota County	Sarasota County Transportation Authority - Section 5310 Capital Assistance for Elderly and Persons with Disabilities Program - Purchase of Replacement Paratransit Buses.	Federal Transit Administration	\$311,824.00	Regionally Significant and Consistent
2007-072	Ms. Meg Engelen	Sarasota County Transportation	Sarasota County	Sarasota County Transportation Authority - Section 5311 Program - Nonurbanized Area Operating Assistance.	Federal Transit Administration	\$144,208.00	Regionally Significant and Consistent
2007-073	Mr. Gary Bryant, President/CEO	Good Wheels, Inc.	Lee County	Good Wheels, Inc. - 2008 U.S.C. Section 5310 Grant - Purchase of six replacement vehicles for high level of service to the elderly and persons with disabilities.	Federal Transit Administration	\$806,118.00	Regionally Significant and Consistent

SWFRPC #	Name1	Name2	Location	Project Description	Funding Agent	Funding Amount	Council Comments
2007-074	Mr. Gary Bryant, President/CEO	Good Wheels, Inc.	Lee County	Good Wheels, Inc. - 2008 U.S.C. Section 5311 Grant - Operating expenses for Dial-A-Ride transportation services for non-urbanized areas.	Federal Transit Administration	\$228,100.00	Regionally Significant and Consistent
2007-075	Ms. Sue Faulkner, Principal Planner	Transportation Services Division	Collier County	Collier County Transportation Services Division - Section 5311 Grant Application - Operating assistance to continue public transportation services in the rural community of Immokalee, Collier County, Florida.	Federal Transit Administration	\$587,566.00	Regionally Significant and Consistent
2007-076	Ms. Sue Faulkner, Principal Planner	Transportation Services Division	Collier County	Collier County Transportation Services Division - 5310 Grant Application - Replace paratransit vehicles that have outlived their useful life.	Federal Transit Administration	\$310,800.00	Regionally Significant and Consistent
2007-077	Ms. Deborah Oellrich	J.H. Floyd Sunshine Manor, Inc.	Sarasota County	J.H. Floyd Sunshine Manor, Inc. - Section 5310 Capital Program - Purchase two small cutaways.	Federal Transit Administration	\$107,782.00	Regionally Significant and Consistent
2007-078	Ms. Elaine S. Wright	Florida Planning Group, Inc.	Charlotte County	Department of Housing and Urban Development - Home Investment Partnerships Program - Florida Housing Finance Corporation, Construction of Marian Manor Apartments - Port Charlotte, Charlotte County, Florida.			Regionally Significant and Consistent
2008-001	Ms. Sherry L. Allen	Southeastern Network of Youth & Family	Lee County	Southeastern Network of Youth & Family Services - SEN AmeriCorps Project in Lee County, Florida.	Corp. for National & Community	\$504,419.00	Regionally Significant and Consistent
2008-004	Ms. Lainie Edwards	FDEP - Environmental Permitting	Sarasota County	FDEP - Bureau of Beaches & Coastal Systems - Longboat Key Permeable Adjustable Groins at the Islander - Town of Longboat Key, Sarasota County, Florida.			Regionally Significant and Consistent

Review in Progress

<i>SWFRPC #</i>	<i>First Name</i>	<i>Last Name</i>	<i>Location</i>	<i>Project Description</i>	<i>Funding Agent</i>	<i>Funding Amount</i>	<i>Council Comment</i>
2007-006			Lee County	Lee County Transit - Rural operating assistance for Lee County, Florida under USC Section 5311 Non-Urbanized Area Formula Program.	Federal Transit Administration	\$258,300.00	Review in Progress
2007-048			Lee County	FDEP JCP File #: 0262704-001 - JC - South Bank Properties, LLC - North Capiva Island Beach Restoration Project in Lee County, Florida.			Review in Progress
2008-002			Collier County	FDEP - Bureau of Beaches & Coastal Systems - Doctor's Pass North Jetty Rehabilitation in Collier County, Florida.			Review in Progress
2008-003			Collier County	FDEP - Bureau of Beaches & Coastal Systems - Hideaway Beach Groins and Beach Fill Modification in Collier County, Florida.			Review in Progress
2008-007			Lee County	Lee County Transit - FL-37-X027 FY 2006 JARC Grant Application USC 5316 Job Access Reverse Commute.	FTA	\$47,145.00	Review in Progress
2008-008			Lee County	Lee County Transit - FL-57-X005 FY 2006 Grant Application USC 5317 New Freedom.	FTA	\$34,795.00	Review in Progress

<i>SWFRPC #</i>	<i>First Name</i>	<i>Last Name</i>	<i>Location</i>	<i>Project Description</i>	<i>Funding Agent</i>	<i>Funding Amount</i>	<i>Council Comments</i>
2008-009			Charlotte County	Charlotte County Public Schools - Reduce Alcohol Abuse			Review in Progress
2008-012			Lee County	School District of Lee County - Myth Busting.	US Dept. of Education	\$704,189.00	Review in Progress
2008-013			Lee County	School District of Lee County - Securing Our Schools	US Department of Education	\$400,729.00	Review in Progress

_____ Agenda
_____ Item

3b

Financial Statement
For February 29, 2008

3b

MONTHLY FINANCIAL CONTENTS
For the month ending February 29, 2008

	Pages
Financial Reports:	
Balance Sheet - Governmental Types and Account Groups	1
Balance Sheet - Assets, Liabilities and Capital	2
Income Statement - Combined	3
This page is a comparison of the budget and actual for the current month as well as the year to date figures. It also includes the net income for both the month and the year to date. The last column of the report reflects the percentage spent of the budget in each expense line as well as the overall total.	
Explanation of Council's Financial at current month end including:	4
- Percentage of Budget Spent for RPC, MPO, and NEP and any predicted expenses as to percentages not within acceptable range. There may be further comments on the breakdown of actual expenses.	
- Net income at current month end	
- Graphs showing the distribution of revenues and expenses	
- Any other notes felt needed at this time	
Amendments	5
As requested, amendments will be made as needed throughout the year rather than at year end as previously accepted.	
Breakdown of actual expenses for the RPC, MPO, NEP including	
- percentages and any amendments requested.	
- Please note that the Budget on the Income Statement on page 3 will not reflect any amendments, if needed, until they are actually approved.	
Combined RPC/MPO/NEP	6
NEP	7
MPO	8
RPC Total	9
RPC by Project	10
Income statement - Comparison of current year vs. prior year	11
This page is a comparison of the actual figures for the current month and year to date to the previous year's figures. It also includes the net income for both years.	

**SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
 COMBINED BALANCE SHEET -
 GOVERNMENTAL FUND TYPES AND ACCOUNT GROUPS
 February-08**

	Governmental Fund Types		Account Groups		Totals
	General Fund	Special Revenue Fund	General Fixed Assets	General Long-Term Debt	(Memorandum Only)
ASSETS AND OTHER DEBIT					
Cash and cash equivalents	\$ 672,317	\$ -	\$ -	\$ -	\$ 672,317
Investments	507,820	-	-	-	507,820
Receivables - grants and contracts	-	439,727	-	-	439,727
Receivables - other	-	-	-	-	-
Due from other funds	-	505,772	-	-	505,772
Other assets	1,094	-	-	-	1,094
Property and equipment, net	-	-	1,694,060	-	1,694,060
Amount to be provided for retirement of general long-term debt	-	-	-	1,420,538	1,420,538
TOTAL ASSETS AND OTHER DEBIT	\$ 1,181,231	\$ 945,499	\$ 1,694,060	\$ 1,420,538	\$ 5,241,328
LIABILITIES, FUND EQUITY AND OTHER CREDIT					
LIABILITIES					
Accounts payable and accrued expenses	\$ 40,292	\$ -	\$ -	\$ -	\$ 40,292
Retainage payable	27,960	-	-	-	27,960
Due to other governments	-	-	-	-	-
Due to other funds	505,772	-	-	-	505,772
Deferred revenue - grants and contracts	-	945,499	-	-	945,499
Accrued compensated absences	-	-	-	62,768	62,768
Notes payable	-	-	-	1,357,770	1,357,770
TOTAL LIABILITIES	574,024	945,499	-	1,420,538	2,940,061
FUND EQUITY AND OTHER CREDIT					
Investment in general fixed assets	-	-	1,694,060	-	1,694,060
Fund balance					
Reserved, designated	471,600	-	-	-	471,600
Unreserved, undesignated	135,607	-	-	-	135,607
TOTAL FUND EQUITY AND OTHER CREDIT	607,207	-	1,694,060	-	2,301,267
TOTAL LIABILITIES, FUND EQUITY AND OTHER CREDIT	\$ 1,181,231	\$ 945,499	\$ 1,694,060	\$ 1,420,538	\$ 5,241,328

SWFRPC
Balance Sheet
February 29, 2008

ASSETS

Current Assets		
Cash - Bank of America Oper.	\$	101,363.41
Cash - Bank of America Max.		570,753.85
Cash - FL Local Gov't Pool		455,917.65
Cash - FL Gov't Pool-Fund B		51,902.39
Petty Cash		200.00
Accounts Receivable		353,359.11
Accounts Receivable-MPO		86,367.95
Bulk Mail Prepaid Postage		1,094.06
Amount t.b.p. for L.T.L.-Leave		62,768.14
Amount t.b.p. for L.T.Debt		1,357,770.05
		<hr/>
Total Current Assets		3,041,496.61
Property and Equipment		
Property, Furniture & Equip		1,989,951.25
Accumulated Depreciation		(295,891.67)
		<hr/>
Total Property and Equipment		1,694,059.58
		<hr/>
Total Assets	\$	<u>4,735,556.19</u>

LIABILITIES AND CAPITAL

Current Liabilities		
Accounts Payable	\$	39,917.84
Retainage Payable		27,959.97
Deferred Income		945,498.86
United way Payable		124.00
Accrued Annual Leave		62,768.14
Long Term Debt - Bank of Am.		1,357,770.05
LEPC Contintency Fund		250.59
		<hr/>
Total Current Liabilities		2,434,289.45
		<hr/>
Total Liabilities		2,434,289.45
Capital		
Fund Balance-Unrestricted		87,335.18
Fund Balance-Restricted		471,600.00
Fund Balance-Fixed Assests		1,694,059.58
Net Income		48,271.98
		<hr/>
Total Capital		2,301,266.74
		<hr/>
Total Liabilities & Capital	\$	<u>4,735,556.19</u>

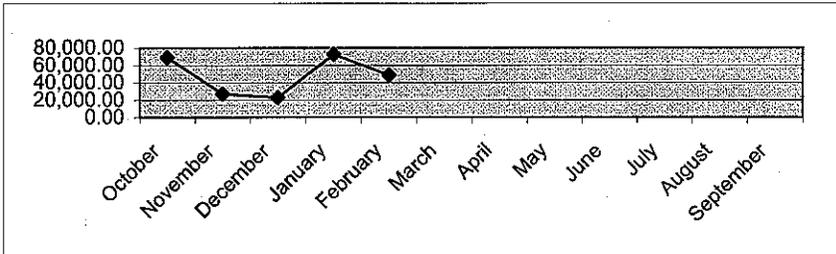
SWFRPC
Income Statement
Compared with Budget
For the Five Months Ending February 29, 2008

	Current Month This Year	Current Month Last Year	Year to Date This Year	Year to Date Last Year	Percentage Spent
Revenues					
Total Revenues	258,470.37	367,124.75	1,398,999.65	4,405,497.00	
Expenses					
Salaries Expense	124,690.22	144,368.25	605,057.29	1,732,419.00	34.93%
FICA Expense	9,291.39	10,416.67	49,512.70	125,000.00	39.61%
Retirement Expense	14,941.20	14,166.67	55,332.25	170,000.00	32.55%
Health Insurance Expense	17,450.79	19,166.67	91,033.55	230,000.00	39.58%
Workers Comp. Expense	590.00	1,250.00	2,950.00	15,000.00	19.67%
Legal Fees Expense	0.00	833.33	0.00	10,000.00	0.00%
Grant/Consulting Expense	1,137.50	3,333.33	(3,408.48)	40,000.00	-8.52%
NEP-Contractual	62,946.35	22,691.67	240,641.33	272,300.00	88.37%
MPO-Contractual	18,186.14	69,012.50	25,750.12	828,150.00	3.11%
Audit Services Expense	0.00	3,916.67	27,000.00	47,000.00	57.45%
Travel Expense	1,307.65	5,041.67	13,816.69	60,500.00	22.84%
Telephone Expense	551.36	1,666.67	3,690.43	20,000.00	18.45%
Postage / Shipping Expense	176.26	3,333.33	9,231.72	40,000.00	23.08%
Storage Unit Rental	186.00	341.67	930.00	4,100.00	22.68%
Equipment Rental Expense	6,045.85	3,916.67	15,972.21	47,000.00	33.98%
Insurance Expense	0.00	2,833.33	27,455.93	34,000.00	80.75%
Repair/Maint. Expense	1,720.00	3,333.33	8,860.35	40,000.00	22.15%
Printing/Reproduction Expense	3,465.47	8,583.33	29,462.51	103,000.00	28.60%
Utilities (Elec, Water, Gar)	1,514.99	2,666.67	9,032.77	32,000.00	28.23%
Advertising Expense	951.86	795.83	5,322.06	9,550.00	55.73%
Other Misc. Expense	0.00	604.17	744.96	7,250.00	10.28%
Office Supplies Expense	2,391.00	2,375.00	11,275.54	28,500.00	39.56%
Computer Related Expense	1,556.55	4,583.33	15,672.28	55,000.00	28.50%
Publication Expense	0.00	883.33	439.50	10,600.00	4.15%
Prof. Develop./Dues Expense	2,072.00	3,333.33	26,965.95	40,000.00	67.41%
Meetings/Events Expense	1,164.12	5,733.33	14,709.61	68,800.00	21.38%
Capitol Outlay Expense	0.00	3,666.67	2,596.80	44,000.00	5.90%
Capitol Outlay - Building	0.00	12,500.00	7,450.00	150,000.00	4.97%
Long Term Debt	10,645.92	10,666.67	53,229.60	128,000.00	41.59%
Total Expenses	282,982.62	366,014.08	1,350,727.67	4,392,169.00	30.75%
Net Income	(\$ 24,512.25)	1,110.67	\$ 48,271.98	\$ 13,328.00	

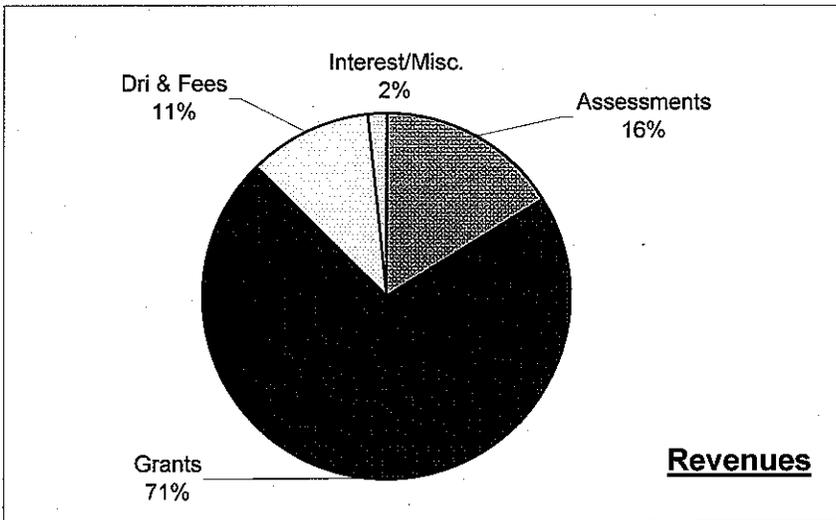
The next few pages are a breakdown of actual expenses for each project in Special Revenues as well as in general operations. Included in these pages, as requested, are percentages for each line item and an overall percentage spent by the RPC; NEP, and MPO.

The overall percentage of the Budget spent is 30.75%
 The percentage of the RPC Budget spent is 34.88%
 The percentage of the MPO Budget spent is 9.05%
 The percentage of the NEP Budget spent is 54.89%

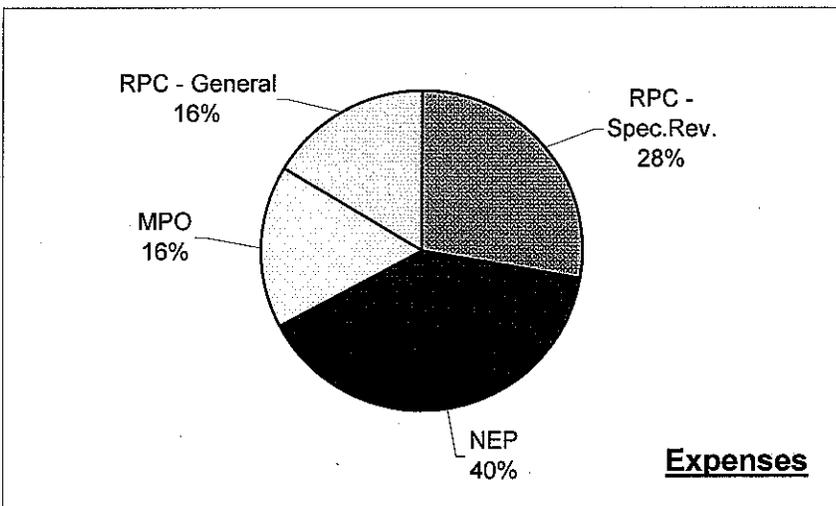
For the month ending February 29, 2008 **\$48,272** is our net income.



Net Income (unaudited)
 As can be seen in this graph, the net income moves in quarterly cycles.



Revenues	
Assessments	225,216
Grants	998,357
Dri & Fees	150,891
Interest/Misc.	24,535
	<u>1,398,999</u>



Expenses (Cash & Non-Cash)	
RPC - Spec.Rev.	374,537
NEP	534,300
MPO	220,005
RPC - General	221,886
	<u>1,350,728</u>

In regard to predicted expenses, please see notes below.

NOTES:

As requested, are any amendments needed at this time. These amendments are explained below:

None for this month

RPC-MPO-NEP Combined
Budget vs. Actual
For the month ending February 29, 2008

	Combined Actual	Combined Budget	Combined Amended Budget	Combined Total Amendments	Combined Amended Budget	Combined VARIABLE	41.67%	Combined Comments
Revenues								
Membership Dues	225,216	450,432	450,432		450,432	225,216	50.00%	
Federal/State/Local Grants	998,357	3,675,065	3,675,065		3,675,065	2,676,708	27.17%	
Dir/Monitoring Fees	150,891	250,000	250,000		250,000	99,109	60.36%	
Interest And Miscellaneous	24,535	30,000	30,000		30,000	5,465	81.78%	
NEP/MPO Fringe/Indirect Support								
Total Income	1,398,999	4,405,497	4,405,497	0	4,405,497	3,006,498		
Expenditures								
Direct:								
Salaries	605,058	1,732,419	1,732,419	0	1,732,419	1,127,361	34.93%	
FICA	49,513	125,000	125,000	0	125,000	75,487	39.61%	
Retirement	55,332	170,000	170,000	0	170,000	114,668	32.55%	
Health Insurance	91,034	230,000	230,000	0	230,000	138,966	39.58%	
Workers Compensation	2,950	15,000	15,000	0	15,000	12,050	19.67%	
Legal Fees	0	10,000	10,000	0	10,000	10,000	0.00%	
Consultant Fees	-3,408	158,000	40,000	0	40,000	43,408	-8.52%	
NEP Contractual	240,641	272,300	272,300	0	272,300	31,659	88.37%	
MPO Contractual	25,750	710,150	828,150	0	828,150	802,400	3.11%	
Audit Fees	27,000	47,000	47,000	0	47,000	20,000	57.45%	
Travel	13,817	60,500	60,500	0	60,500	46,683	22.84%	
Telephone	3,690	20,000	20,000	0	20,000	16,310	18.45%	
Postage	9,232	40,000	40,000	0	40,000	30,768	23.08%	
Storage Space Rental	930	4,100	4,100	0	4,100	3,170	22.68%	
Equipment Rental	15,972	47,000	47,000	0	47,000	31,028	33.98%	
Insurance	27,456	34,000	34,000	0	34,000	6,544	80.75%	
Repair/Maintenance	8,860	40,000	40,000	0	40,000	31,140	22.15%	
Printing/Reproduction	29,463	103,000	103,000	0	103,000	73,537	28.60%	
Utilities (Elec, Gas, Water)	9,033	32,000	32,000	0	32,000	22,967	28.23%	
Advertising	5,322	9,550	9,550	0	9,550	4,228	55.73%	
Other Miscellaneous	745	7,250	7,250	0	7,250	6,505	10.28%	
Office Supplies	11,276	28,500	28,500	0	28,500	17,224	39.56%	
Computer Related Expenses	15,672	55,000	55,000	0	55,000	39,328	28.50%	
Publications	440	10,600	10,600	0	10,600	10,161	4.15%	
Professional Development	26,966	40,000	40,000	0	40,000	13,034	67.41%	
Meetings/Events	14,710	68,800	68,800	0	68,800	54,090	21.38%	
Capital Outlay-Operations	2,597	44,000	44,000	0	44,000	41,403	5.90%	
Capital Outlay-Building	7,450	150,000	150,000	0	150,000	142,550	4.97%	
Long Term Debt	53,230	128,000	128,000	0	128,000	74,770	41.59%	
Total Cash Outlays	1,350,728	4,392,169	4,392,169	0	4,392,169	3,041,441	30.75%	
Net Income/(Loss)	48,272	13,328	13,328	0	13,328			

NEP
Budget vs. Actual
For the month ending February 29, 2008

	CHNEP Actual	CHNEP Original Budget	NEP Amended Budget	CHNEP Requested Amendments	CHNEP Amended Budget	CHNEP VARIABLE	41.67%	CHENP Comments
Revenues								
Membership Dues	534,300	0	0	0	0	0		
Federal/State/Local Grants		1,113,316	1,113,316		1,113,316	579,016	47.99%	
Dr/Monitoring Fees		0	0		0	0		
Interest And Miscellaneous		0	0		0	0		
NEP/MPO Fringe/Indirect Support		0	0		0	0		
Total Income	534,300	1,113,316	1,113,316	0	1,113,316	579,016		
Expenditures								
Direct:								
Salaries	100,745	291,416	291,416		291,416	190,671	34.57%	
FICA	0				0	0		
Retirement	0				0	0		
Health Insurance	0				0	0		
Workers Compensation	0				0	0		
Legal Fees	0				0	0		
Consultant Fees	0				0	0		
NEP Contractual	240,641	272,300	272,300		272,300	31,659	88.37%	
MPO Contractual	0				0	0		
Audit Fees	0				0	0		
Travel	5,446	21,500	21,500		21,500	16,054	25.33%	
Telephone	246	1,500	1,500		1,500	1,254	16.41%	
Postage	8,005	10,000	10,000		10,000	1,995	80.05%	
Storage Space Rental	300	1,000	1,000		1,000	700	30.00%	
Equipment Rental	0				0	0		
Insurance	0				0	0		
Repair/Maintenance	0				0	0		
Printing/Reproduction	27,955	83,000	83,000		83,000	55,045	33.68%	
Utilities (Elec, Gas, Water)	0				0	0		
Advertising	521	550	550		550	29	94.78%	
Other Miscellaneous	3	750	750		750	747	0.42%	
Office Supplies	2,198	1,500	1,500		1,500	-698	146.56%	
Computer Related Expenses	1,598	3,000	3,000		3,000	1,402	53.28%	
Publications	0	500	500		500	500	0.00%	
Professional Development	683	8,500	8,500		8,500	7,817	8.04%	
Meetings/Events	15,282	33,800	33,800		33,800	18,518	45.21%	
Capital Outlay-Operations	0	6,000	6,000		6,000	6,000	0.00%	
Capital Outlay-Building	0		0					
Long Term Debt								
Total Cash Outlays	403,625	735,316	735,316	0	735,316	331,691	54.89%	
Net Income/(Loss)								

MPO
Budget vs. Actual
For the month ending February 29, 2008

	MPO Actual	MPO Original Budget	MPO Amended Budget	MPO Requested Amendments	MPO Amended Budget	MPO VARIABLE	41.67%	MPO Comments
Revenues								
Membership Dues	220,005	0	0	0	0	0		
Federal/State/Local Grants		1,761,749	1,761,749		1,761,749	1,541,744	12.49%	
Drif/Monitoring Fees		0	0		0	0		
Interest And Miscellaneous		0	0		0	0		
NEP/MPO Fringe/Indirect Support		0	0		0	0		
Total Income	220,005	1,761,749	1,761,749	0	1,761,749	1,541,744		
Expenditures								
Direct:								
Salaries	82,255	388,839	388,839		388,839	306,584	21.15%	
FICA	0				0	0		
Retirement	0				0	0		
Health Insurance	0				0	0		
Workers Compensation	0				0	0		
Legal Fees	0				0	0		
Consultant Fees	0	118,000	0		0	0		
NEP Contractual	0		0		0	0		
MPO Contractual	25,750	710,150	828,150		828,150	802,400	3.11%	
Audit Fees	0				0	0		
Travel	383	9,000	9,000		9,000	8,617	4.26%	
Telephone	435	3,500	3,500		3,500	3,065	12.44%	
Postage	390	8,000	8,000		8,000	7,610	4.88%	
Storage Space Rental	0				0	0		
Equipment Rental	0				0	0		
Insurance	0				0	0		
Repair/Maintenance	0				0	0		
Printing/Reproduction	270	5,000	5,000		5,000	4,730	5.40%	
Utilities (Elec, Gas, Water)	0				0	0		
Advertising	4,350	6,000	6,000		6,000	1,650	72.50%	
Other Miscellaneous	166	500	500		500	334	33.20%	
Office Supplies	49	5,000	5,000		5,000	4,952	0.97%	
Computer Related Expenses	400	2,000	2,000		2,000	1,600	20.00%	
Publications	0	600	600		600	600	0.00%	
Professional Development	477	1,500	1,500		1,500	1,023	31.80%	
Meetings/Events	73	5,000	5,000		5,000	4,927	1.46%	
Capital Outlay-Operations	0	8,000	8,000		8,000	8,000	0.00%	
Capital Outlay-Building	0				0	0		
Long Term Debt	0				0	0		
Total Cash Outlays	114,999	1,271,089	1,271,089	0	1,271,089	1,156,090	9.05%	
Net Income/(Loss)								

Regional Planning Council
Budget vs. Actual

For the month ending February 29, 2008

	Total RPC Actual	Total RPC Budget	RPC Amended Budget	RPC Requested Amendments	RPC Amended Budget	RPC VARIABLE	41.67%	RPC Comments
Revenues:								
Membership Dues	225,216	450,432	450,432		450,432	225,216	50.00%	
Federal/State/Local Grants	244,053	800,000	800,000		800,000	555,947	30.51%	
Drift/Monitoring Fees	150,891	250,000	250,000		250,000	99,109	60.36%	
Interest And Miscellaneous	24,535	30,000	30,000		30,000	5,465	81.78%	
NEP/MPO Fringe/Indirect Support	235,681	868,660	868,660		868,660	632,979	27.13%	
Total Income	880,376	2,399,092	2,399,092		2,399,092	1,518,716		
Expenditures:								
Direct:								
Salaries	422,057	1,052,164	1,052,164		1,052,164	630,107	40.11%	
FICA	49,513	125,000	125,000		125,000	75,487	39.61%	
Retirement	55,332	170,000	170,000		170,000	114,668	32.55%	
Health Insurance	91,034	230,000	230,000		230,000	138,966	39.58%	
Workers Compensation	2,950	15,000	15,000		15,000	12,050	19.67%	
Legal Fees	0	10,000	10,000		10,000	10,000	0.00%	
Consultant Fees	-3,408	40,000	40,000		40,000	43,408	-8.52%	
NEP Contractual	0							
MPO Contractual	0							
Audit Fees	27,000	47,000	47,000		47,000	20,000	57.45%	
Travel	7,987	30,000	30,000		30,000	22,013	26.62%	
Telephone	3,009	15,000	15,000		15,000	11,991	20.06%	
Postage	837	22,000	22,000		22,000	21,163	3.80%	
Storage Space Rental	630	3,100	3,100		3,100	2,470	20.32%	
Equipment Rental	15,972	47,000	47,000		47,000	31,028	33.98%	
Insurance	27,456	34,000	34,000		34,000	6,544	80.75%	
Repair/Maintenance	8,860	40,000	40,000		40,000	31,140	22.15%	
Printing/Reproduction	1,237	15,000	15,000		15,000	13,763	8.25%	
Utilities (Elec, Gas, Water)	9,033	32,000	32,000		32,000	22,967	28.23%	
Advertising	451	3,000	3,000		3,000	2,549	15.03%	
Other Miscellaneous	576	6,000	6,000		6,000	5,424	9.60%	
Office Supplies	9,029	22,000	22,000		22,000	12,971	41.04%	
Computer Related Expenses	13,674	50,000	50,000		50,000	36,326	27.35%	
Publications	440	9,500	9,500		9,500	9,061	4.63%	
Professional Development	25,806	30,000	30,000		30,000	4,194	86.02%	
Meetings/Events	-645	30,000	30,000		30,000	30,645	-2.15%	
Capital Outlay-Operations	2,597	30,000	30,000		30,000	27,403	8.66%	
Capital Outlay-Building	7,450	150,000	150,000		150,000	142,550	4.97%	
Long Term Debt	53,230	128,000	128,000		128,000	74,770	41.59%	
Total Cash Outlays	832,104	2,385,764	2,385,764	0	2,385,764	1,553,660	34.88%	
Net Income/(Loss)	48,272	13,328	13,328	0	13,328			

Regional Planning Council
Budget vs. Actual

For the month ending February 29, 2008

	DCA	HMEP/ISQG/ EMERG	Economic Developmt.	Sea Level Rise	TDs	DRIs/ NOPCs	Other Contracts	Total RPC Special Rev.	General	Empl. Bene.	Total RPC General	Total RPC Actual
Revenues:												
Membership Dues	146,787	19,543	8,830	36,729	26,590	150,891	5,575	0	225,216		225,216	225,216
Federal/State/Local Grants								244,053			0	244,053
Dr/ Monitoring Fees						150,891		150,891			0	150,891
Interest And Miscellaneous								0	24,535		24,535	24,535
NEP/MPO Fringe/Indirect Support								0			0	235,681
Total Income	146,787	19,543	8,830	36,729	26,590	150,891	5,575	394,944	249,751	0	249,751	880,376
Expenditures:												
Direct:												
Salaries	62,964	3,792	12,060	15,837	5,347	60,735	2,419	163,155	142,705	116,197	258,903	422,057
FICA	0	0	0	0	0	0	0	0	0	49,513	49,513	49,513
Retirement	0	0	0	0	0	0	0	0	0	55,332	55,332	55,332
Health Insurance	0	0	0	0	0	0	0	0	0	91,034	91,034	91,034
Workers Compensation	0	0	0	0	0	0	0	0	0	2,950	2,950	2,950
Legal Fees	0	0	0	0	0	0	0	0	0	0	0	0
Consultant Fees	-9,978	0	0	0	0	4,620	0	-5,358	1,950	0	1,950	-3,408
NEP Contractual	0	0	0	0	0	0	0	0	0	0	0	0
MPO Contractual	0	0	0	0	0	0	0	0	0	0	0	0
Audit Fees	0	0	0	0	0	0	0	0	27,000	0	27,000	27,000
Travel	3,104	115	57	410	0	429	0	4,116	3,871	0	3,871	7,987
Telephone	0	0	309	0	0	154	0	463	2,546	0	2,546	3,009
Postage	14	0	226	0	0	17	0	257	580	0	580	837
Storage Space Rental	0	0	0	0	0	0	0	0	630	0	630	630
Equipment Rental	0	0	0	0	0	0	0	0	15,972	0	15,972	15,972
Insurance	0	0	0	0	0	0	0	0	27,456	0	27,456	27,456
Repair/Maintenance	0	0	0	0	0	0	0	0	8,860	0	8,860	8,860
Printing/Reproduction	0	0	0	0	0	0	0	0	1,237	0	1,237	1,237
Utilities (Elec, Gas, Water)	0	0	0	0	0	0	0	0	9,033	0	9,033	9,033
Advertising	0	0	50	0	0	0	0	50	400	0	400	451
Other Miscellaneous	0	0	0	0	0	0	0	0	576	0	576	576
Office Supplies	0	0	0	0	0	0	0	0	9,029	0	9,029	9,029
Computer Related Expenses	0	0	0	0	0	0	0	0	13,674	0	13,674	13,674
Publications	0	0	0	0	0	0	0	0	440	0	440	440
Professional Development	255	0	0	0	0	0	0	255	25,551	0	25,551	25,806
Meetings/Events	0	0	11	0	0	0	0	11	-657	0	-657	-645
Capital Outlay-Operations	0	0	0	0	0	0	0	0	2,597	0	2,597	2,597
Capital Outlay-Building	0	0	0	0	0	0	0	0	7,450	0	7,450	7,450
Long Term Debt	0	0	0	0	0	0	0	0	53,230	0	53,230	53,230
Total Cash Outlays	56,358	3,907	12,714	16,248	5,347	65,955	2,419	162,948	354,130	315,026	669,156	832,104
Net Income/(Loss)												48,272

SWFRPC
Income Statement - Two Years
For the Five Months Ending February 29, 2008

	Current Month Actual	Current Month Budget	Year to Date Actual	Year to Date Budget
Revenues				
Total Revenues	258,470.37	128,663.58	1,398,999.65	1,306,737.62
Expenses				
Salaries Expense	124,690.22	113,934.07	605,057.29	600,138.03
FICA Expense	9,291.39	8,599.89	49,512.70	46,960.95
Retirement Expense	14,941.20	15,002.48	55,332.25	55,455.22
Health Insurance Expense	17,450.79	12,123.16	91,033.55	83,263.21
Workers Comp. Expense	590.00	680.00	2,950.00	3,288.00
Grant/Consulting Expense	1,137.50	0.00	(3,408.48)	2,970.00
NEP-Contractual	62,946.35	2,101.96	240,641.33	101,246.96
MPO-Contractual	18,186.14	0.00	25,750.12	19,601.38
Audit Services Expense	0.00	2,000.00	27,000.00	39,000.00
Travel Expense	1,307.65	1,956.37	13,816.69	18,026.08
Telephone Expense	551.36	2,245.13	3,690.43	5,541.82
Postage / Shipping Expense	176.26	204.23	9,231.72	13,889.71
Storage Unit Rental	186.00	186.00	930.00	930.00
Equipment Rental Expense	6,045.85	3,126.37	15,972.21	16,231.53
Insurance Expense	0.00	0.00	27,455.93	29,877.52
Repair/Maint. Expense	1,720.00	1,362.71	8,860.35	6,755.90
Printing/Reproduction Expense	3,465.47	1,777.78	29,462.51	20,706.85
Utilities (Elec, Water, Gar)	1,514.99	1,169.86	9,032.77	9,588.89
Advertising Expense	951.86	879.78	5,322.06	2,433.42
Other Misc. Expense	0.00	309.65	744.96	484.65
Office Supplies Expense	2,391.00	752.98	11,275.54	8,363.20
Computer Related Expense	1,556.55	1,200.00	15,672.28	17,992.84
Publication Expense	0.00	0.00	439.50	428.78
Prof. Develop./Dues Expense	2,072.00	155.00	26,965.95	26,072.50
Meetings/Events Expense	1,164.12	54.40	14,709.61	16,981.01
Capitol Outlay Expense	0.00	13,869.14	2,596.80	16,128.58
Capitol Outlay - Building	0.00	0.00	7,450.00	0.00
Long Term Debt	10,645.92	10,645.92	53,229.60	53,229.60
Total Expenses	282,982.62	194,336.88	1,350,727.67	1,215,586.63
Net Income	(\$ 24,512.25)	(\$ 65,673.30)	\$ 48,271.98	\$ 91,150.99

_____ Agenda
_____ Item

3c

SunTrust Bank DRI

Development Order Review

3c

3c

**SUNTRUST BANK DRI
REVIEW OF LEE COUNTY DEVELOPMENT ORDER**

Council Recommendations (Attachment I)

On September 20, 2007, the Council recommended conditional approval of the SunTrust Bank DRI Review Application. The approval was subject to regional conditions relating to Wildlife. A copy of the Council recommendations can be found as Attachment I. Normally, a stand-alone bank would not be reviewed as a DRI. However, because of a Lee County Comprehensive Plan requirement associated with the approval of Florida Gulf Coast University, Policy 18.2.2 requires "all property within the University Village shall undergo a DRI review".

Lee County Development Order (Attachment II)

On February 18, 2008, the Board of Lee County Commissioners approved the SunTrust Bank DRI Development Order. A copy of the development order (see Attachment II) was rendered to the SWFRPC on March 10, 2008. The 45-day appeal period for the development order expires on April 24, 2008. Staff review of the attached development order finds that it is consistent with all regional issues and recommendations identified within the Council's Official Recommendations.

RECOMMENDED ACTION: Accept the development order as rendered.

**DEVELOPMENT OF REGIONAL
IMPACT ASSESSMENT
FOR
SUNTRUST BANK
DRI # 06-0506-173**

The SunTrust Bank Development of Region Impact (DRI) Review project is located in unincorporated south central Lee County at the northeast entrance to Gulf Coast Town Center on Ben Hill Griffin Parkway just south of Alico Road (see Location Map). Normally, a 4,500 square foot stand-alone bank would not be reviewed as a DRI, however, because of a Lee County Comprehensive Plan requirement associated with the approval of Florida Gulf Coast University, Policy 18.2.2 requires "all property within the University Village shall undergo a DRI review". Therefore, the DRI review for regional impacts is on the 1.2 acre site and 4,500 square feet drive-through bank structure, .25 acres of dry retention storm water management areas, and 44 parking spaces. Buildout of the bank is anticipated to be 2008. This project has no regional impacts other than related to wildlife. In order to be consistent with how other DRIs in the University Village have been reviewed it was necessary to impose regional conditions related to habitat impacts to Florida panthers and bears.

RECOMMENDED ACTION:

The Southwest Florida Regional Planning Council recommends Conditional Approval of the SunTrust Bank DRI Review.

SEPTEMBER 2007



**Southwest Florida Regional Planning Council
1926 Victoria Avenue, Fort Myers, Florida 33901**

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Ms. Janet Watermeier, Watermeier Consulting & Property Services
Mr. Jon Iglehart, FDEP
Ms. Joanne McClellan, SWFWMD
Mr. Johnny Limbaugh, FDOT

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KEN HEATHERINGTON.....PLANNING DIRECTOR
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Don Scott
Daniel L. Trescott
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Janice Yell

**PRIMARY STAFF FOR
SUNTRUST BANK DRI REVIEW**

Coordinator - Daniel L. Trescott

Wildlife – Jim Beever and Dan Trescott

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INTRODUCTION

The SunTrust Bank Development of Region Impact (DRI) Review project is located in unincorporated south central Lee County at the northeast entrance to Gulf Coast Town Center on Ben Hill Griffin Parkway just south of Alico Road (see Location Map). Normally, a 4,500 square foot stand-alone bank would not be reviewed as a DRI, however, because of a Lee County Comprehensive Plan requirement associated with the approval of Florida Gulf Coast University, Policy 18.2.2 requires **"all property within the University Village shall undergo a DRI review"**. Therefore, the DRI review for regional impacts is on the 1.2 acre site and 4,500 square feet drive-through bank structure, .25 acres of dry retention storm water management areas, and 44 parking spaces. Buildout of the bank is anticipated to be 2008. This project has no regional impacts other than related to wildlife. In order to be consistent with how other DRIs in the University Village have been reviewed it was necessary to impose regional conditions related to habitat impacts to Florida panthers and bears.

The Southwest Florida Regional Planning Council as required by Lee County Comprehensive Plan Policy 18.2.2 to review all property within the University Village as a DRI, has prepared the impact assessment for the SunTrust Bank. The DRI assessment is largely based on information supplied by the applicant's consultant. Additional information was obtained by contacting local officials, consulting official plans, and by reviewing reports related to specific issues in the impact assessment. The Florida Fish and Wildlife Conservation Commission and U.S. Fish and Wildlife Service were consulted regarding the wildlife elements of this site.

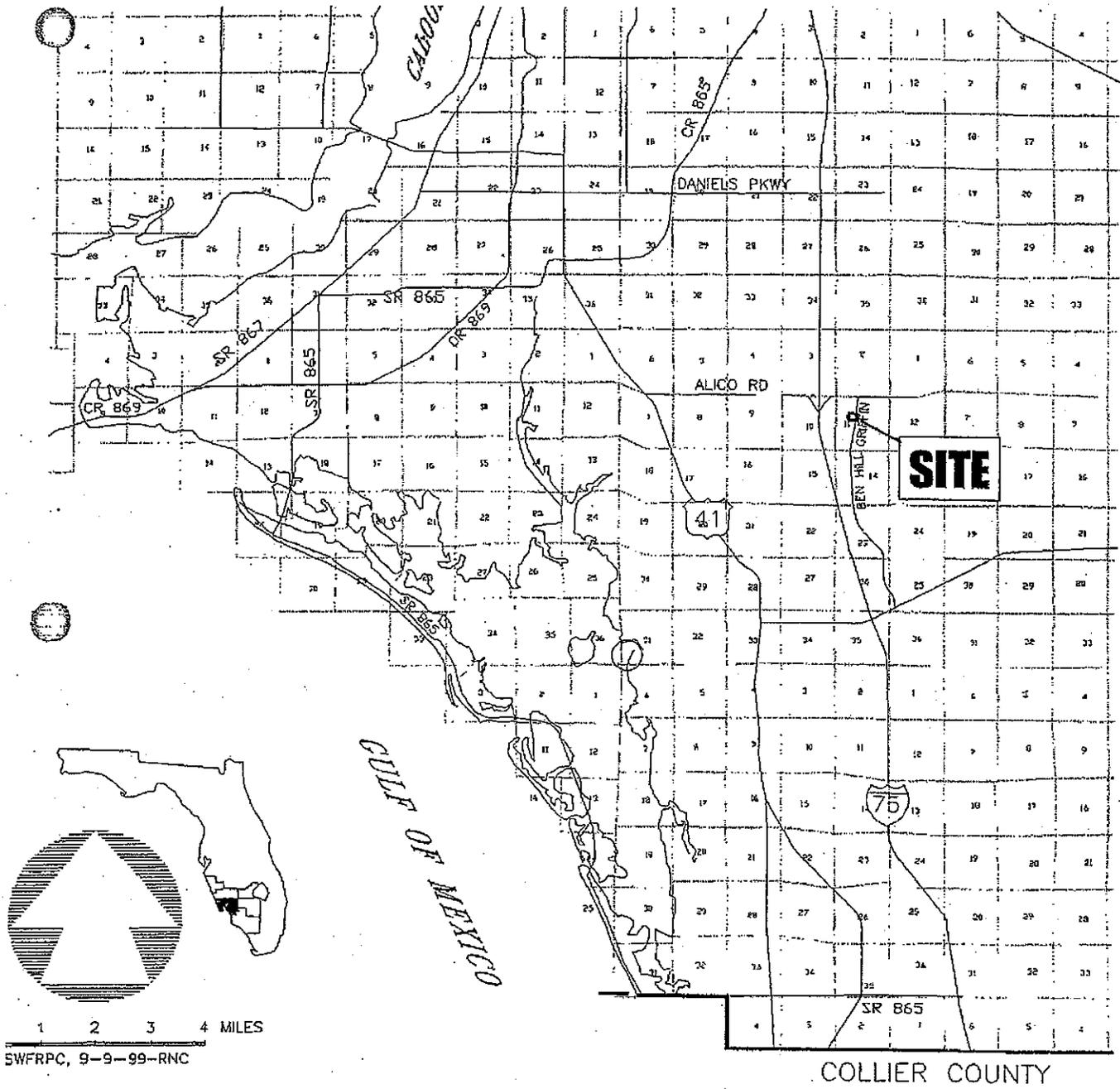
The Council staff assessment is divided into regional and local issues. The regional issues are those that affect more than one county. Recommendations made by the staff regarding these issues are formal conditions to be included by the local government in any Development Order that is issued. In contrast, the local issues are those that affect only a particular county. Accordingly, the Council staff's local objective is to highlight the crucial local issues and suggest remedial actions to be incorporated into a Development Order, should the local government decide to approve the project.

The findings of this evaluation and the Southwest Florida Regional Planning Council's recommendations are intended to assist Lee County in reaching its decision regarding the proposed development. The recommendations are not intended to foreclose or abridge the legal responsibility of local government to act pursuant to applicable local laws and ordinances. Copies of any "Development Order" (an order granting, denying, or granting with conditions an Application for Development permit) issued with regard to the proposed development shall be transmitted to the Southwest Florida Regional Planning Council and the Florida Department of Community Affairs.

APPLICANT INFORMATION AND DEVELOPMENT SUMMARY

APPLICANT INFORMATION

Project Name	Sun Trust Bank
Applicant	SunTrust Real Estate Corporation 1777 Main Street Sarasota, Florida 34236
Date on which DRI Review was officially accepted	July 18, 2006
Date on which DRI/ADA was found sufficient	June 28, 2007
County DRI Hearing Examiner or BOCC Date	October 17, 2007
Date County Notified SWFRPC of Public Hearing	August 1, 2007
Type of Development	Office
Location of Development	Lee County
DRI Threshold	300,000 square feet
<u>Development Summary</u>	
Office	4,500 square feet
Total Acres	1.25 acres



**ATTACHMENT I
GENERAL LOCATION MAP**

**SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL'S
STAFF FINDINGS AND RECOMMENDATIONS**

REGIONAL

IT IS THE RECOMMENDATION OF THE SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL THAT THE APPLICATION FOR DEVELOPMENT APPROVAL DATED JUNE 20, 2006 AND THE OCTOBER 4, 2006 FIRST SUFFICIENCY RESPONSES IS APPROVED SUBJECT TO THE FOLLOWING CONDITION:

1. WILDLIFE (Refer to Appendix I, Section A)

The SunTrust site is 1.25 acres of ruderal vacant field. The DRI application indicates that this area was part of the fallow agricultural fields on the site. In its current condition the applicant considers the site to be land in transition without indicators of intended activity. Subsequent to clearing the site has re-grown in an old field condition. As with the surrounding Gulf Coast Town Center DRI, total project site was documented for, and had the potential to impact the occurrence of the Florida panther, Florida black bear, snail kite, little blue heron, snowy egret, tricolored heron, white ibis, and American alligator. Florida black bear has also been documented west, south, and east of the site. Florida panther has been subject to road kill on Alico Road 0.4 miles from the intersection with I-75. The applicant is also willing to comply with the USFWS conditions for street lighting.

RECOMMENDATIONS

Any DRI Development Order issued by Lee County shall contain the following provisions:

- a. The final mitigation requirements will be addressed in the ACOE Permit based on input from the USFWS. Prior to final Lee County DO approval, if written correspondence from the USFWS is not provided for the record stating that no off-site Panther mitigation is required then the loss of panther habitat will be mitigated off-site within the Estero Bay Watershed.
- b. Parking lot lamps will not exceed 18 feet in height. Mercury vapor lamps/lights will be prohibited. All outdoor lighting poles/fixtures located in the vehicle use area will be shielded, full-cutoff, recessed, down-lit with high pressure sodium fixtures. All site and building mounted luminaries will produce a maximum initial luminance value no greater than 0.20 horizontal and vertical foot-candles at the site boundary and no greater than 0.01 horizontal foot-candles 15 feet beyond the site boundary. Where the site boundary abuts a public right-of-way (Ben Hill Griffin and Gulf Coast Towne Center Parkway and other internal roadways), light trespass requirements will be met relative to the curb line instead of the site boundary.

ATTACHMENT II

DEVELOPMENT ORDER
FOR
SUNTRUST BANK
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI # 06-0506-173
LEE COUNTY CASE # DRI2006-00006

LET IT BE KNOWN THAT, PURSUANT TO FLORIDA STATUTES (F.S.) §380.06, THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA HEARD AT A PUBLIC HEARING CONVENED ON FEBRUARY 18, 2008, THE APPLICATION FOR DEVELOPMENT APPROVAL OF SUNTRUST DEVELOPMENT OF REGIONAL IMPACT (DRI), FILED BY SUNTRUST BANK, SOUTHWEST FLORIDA, AS THE OWNER/APPLICANT AND DEVELOPER. THE SUNTRUST DRI PROVIDES FOR A BANK TO BE DEVELOPED ON APPROXIMATELY 1.25 ACRES IN ACCORDANCE WITH THE APPLICATION SUBMITTED TO LEE COUNTY ON JULY 18, 2006.

WHEREAS, the Board of County Commissioners of Lee County, Florida considered the report and recommendations of the Southwest Florida Regional Planning Council (SWFRPC), comments from the Florida Department of Community Affairs (DCA), the Lee County Staff, the Lee County Hearing Examiner, the application and sufficiency submittals, and the documents and comments made on the record in public hearing; and, after full consideration of those reports, recommendations, documents and comments, the Board of County Commissioners of Lee County, Florida find and determine that:

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

A. The SunTrust DRI is a project on 1.25 acres consisting of 4,500 square feet of bank buildings. The project is located in Lee County, south of Alico Road, on the east side of Ben Hill Griffin Parkway and surrounded by Gulf Coast Town Center DRI and legally described in attached Exhibit A.

B. The project will be constructed in one phase as depicted on Map H attached as Exhibit B. Site preparation will commence upon completion of all necessary permitting. The project buildout date is 2008.

Water supply and wastewater treatment will be provided by Gulf Environmental Services.

C. Review of this stand alone bank under F.S. §380.06 is required by Lee County Comprehensive Plan Policy 18.2.2, which requires all property within the University Village overlay area of the University Community land use category to undergo DRI review.

D. The property is zoned CPD.

E. The Application for Development Approval (ADA) for the SunTrust DRI is consistent with the requirements of F.S. §380.06, and was found sufficient by the Southwest Florida Regional Planning Council on September 20, 2007.

F. The development is not located in an area designated as an Area of Critical State Concern under the provisions of F.S. §380.05.

G. The development does not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan. The development is consistent with the State Comprehensive Plan if developed in accordance with the conditions of approval set forth herein.

H. The development has been reviewed by the SWFRPC and is the subject of the report and recommendations adopted by that body in September 2007. The SWFRPC report and recommendations were subsequently forwarded to Lee County pursuant to F.S. §380.06. The SWFRPC found that the only regional impacts created by the proposed project were related to wildlife. The development, as proposed in the ADA and modified by this Development Order, is consistent with the report and recommendations of the SWFRPC pursuant to F.S. §380.06(11).

I. The development is located in, and is consistent with, the University Community land use category.

J. The conditions set forth below meet the criteria found in F.S. §380.06(15)(d).

II. ACTION ON THE REQUEST AND CONDITIONS OF APPROVAL.

NOW THEREFORE, be it resolved by the Board of County Commissioners of Lee County, Florida, in a public meeting duly advertised, constituted and assembled February 18, 2008, the Development of Regional Impact Application for Development Approval for the project known as the SunTrust DRI, is hereby approved subject to the following conditions, restrictions and limitations. For the purpose of this Development Order, the term "Developer" refers to SunTrust Bank, Southwest Florida and includes all of its successors or assigns, and all references to County Ordinances or other regulations, includes future amendments.

WILDLIFE

1. Wildlife mitigation requirements will be addressed in the Army Corps of Engineers (ACOE) Permit based upon input from United States Fish and Wildlife Service (USFWS). Prior to issuance of a local development order approval, Developer must either

- a. provide written correspondence form USFWS indicating that no offsite Panther mitigation is required; or
- b. mitigate for the loss of Panther habitat offsite within the Estero Bay Watershed.

2. Parking lot lamps may not exceed 189 feet in height. Mercury vapor lamps are prohibited. All outdoor lighting poles and fixtures located in the vehicle use area must be shielded, full-cutoff, recessed, down-lit with high pressure sodium fixtures. All site and building mounted luminaires may produce a maximum initial luminance value of no greater than 0.20 horizontal and vertical foot candles at the site boundary and no greater than 0.01 horizontal foot candles 15 feet beyond the site boundary. Where the site boundary abuts a public right-of-way (i.e., Ben Hill Griffin, Gulf Coast Towne Center Parkway and other internal roadways) light trespass requirements must be met relative to the curb line instead of the site boundary.

III. LEGAL EFFECT AND LIMITATIONS OF THIS DEVELOPMENT ORDER AND ADMINISTRATIVE REQUIREMENTS.

A. Resolution. This Development Order constitutes a resolution of Lee County adopted by the Board of County Commissioners in response to the DRI ADA filed for the SunTrust DRI.

B. Additional Developer Commitments. All commitments and impact mitigating actions volunteered by the Developer in the ADA and supplementary documents that are not in conflict with conditions or stipulations specifically enumerated above are incorporated by reference into this Development Order. These documents include, but are not limited to the following:

1. The SunTrust Application for Development Approval Development of Regional Impact ADA stamped received July 18, 2006.
2. The SunTrust DRI sufficiency responses, stamped received on November 30, 2006 and June 16, 2007.

C. Master Plan of Development. Map H, dated 12/27/07, stamped received "DEC 27 2007," is attached as Exhibit B, and is incorporated by reference. The Developer may modify the boundaries of development areas and the location of internal roadways to accommodate topography, vegetation, traffic circulation, or other site related conditions as long as the modification meets local development regulations.

D. Binding Effect. This Development Order is binding upon the Developer, and its assignees or successors in interest. Where the Development Order refers to lot owners, business owners or other specific references, those provisions are binding on the entities or individuals referenced. Those portions of this Development Order that clearly apply only to the project Developer are binding upon any builder/Developer who acquires a tract or parcel of land within the DRI. The Developer may impose or pass on the requirements of this DRI Development Order to ultimate purchasers through covenants that run with the land.

E. Reliance. The terms and conditions set out in this Development Order constitute a basis upon which the Developer and the County may rely in future actions necessary to fully implement the final development contemplated by this Development Order. Changes to the development type or phasing schedule may require a re-analysis of project impacts in order to rebut a presumption of substantial deviation.

F. Enforcement. All conditions, restrictions, stipulations and safeguards contained in this Development Order may be enforced by either party by action at law or equity. The cost of those proceedings, including reasonable attorney's fees, will be paid by the defaulting party.

G. Successor Agencies. References to governmental agencies will be construed to mean future instrumentalities that may be created and designated as successors in interest to, or which otherwise possess the powers and duties of, the referenced governmental agencies in existence on the effective date of this Development Order.

H. Severability. If any portion or section of this Development Order is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, then that decision will not affect the remaining portions or sections of the Development Order, which will remain in full force and effect.

I. Applicability of Regulations. This Development Order does not negate the Developer's responsibility to comply with federal, state, regional and local regulations.

J. Further Review. Subsequent requests for local development permits do not require further DRI review pursuant to F.S. §380.06. However, upon a finding by the Board

that any of the following conditions exist, the Board must order a termination of all development activity in that portion of the development affected by the substantial deviation until a DRI Application for Development Approval, Notice of Substantial Deviation or Notice of Proposed Change has been submitted, reviewed and approved in accordance with F.S. §380.06.

1. There is a substantial deviation from the terms or conditions of this Development Order or other changes to the approved development plans that create a reasonable likelihood of adverse regional impacts or other regional impacts that have not been evaluated in the review by the SWFRPC; or

2. Expiration of the period of effectiveness of the Development Order. Any request to extend the effectiveness of this Development Order will be evaluated based on the criteria for the extension of the buildout date set forth in F.S. §380.06(19).

3. Conditions in the development order that specify circumstances under which the development will be required to undergo additional DRI review.

K. Commencement of Physical Development. Substantial physical development of the project must occur no later than 2008.

L. Buildout and Termination Dates. The project has a buildout date of December 31, 2008, and a termination date of December 31, 2012. This term is based on the recognition that a local Development Order, which is valid for six years, may be obtained prior to December 31, 2008. No permits for development will be issued by the County subsequent to the termination date or expiration date unless the conditions set forth in F.S. §380.06(15)(g) are applicable.

M. Assurance of Compliance. The administrative director of the Lee County Department of Community Development, or designee, will be the local official responsible for assuring compliance with this Development Order. Lee County is primarily responsible for monitoring the development and enforcing the provisions of the development order. No permits or approvals will be issued if the Developer fails to act in substantial compliance with the development order.

N. Credits Against Local Impact Fees. Pursuant to F.S. §380.06(16), the Developer may be eligible for credits for contributions, construction, expansion, or acquisition of public facilities, if the Developer is also subject by local ordinances to impact fees or exactions to meet the same needs. However, no credit will be provided for internal on-site facilities required by County regulations or to any off-site facilities to the extent those facilities are necessary to provide safe and adequate services to the development.

O. Protection of Development Rights. Assuming the project can comply with the County's Concurrency Management Program at the time development permits are requested, the project will not be subject to down-zoning, unit density reduction, intensity reduction or prohibition of development until December 31, 2012. If the County demonstrates at a public hearing that substantial changes have occurred in the conditions underlying the approval of this Development Order, or finds that the Development Order was based on substantially inaccurate information provided by the Developer, or that the change is clearly established by Lee County to be essential to public health, safety and welfare, then down-zoning unit density reduction or prohibition of development may occur.

P. Annual Reports. The Developer must submit a report biennially to the Lee County Department of Community Development, the SWFRPC and Florida DCA on Form RPM-BSP-Annual Report-1. The content of the report must include the information set forth in Exhibit C, and must also be consistent with the rules of the DCA. The first monitoring report must be submitted to the DRI coordinator for SWFRPC, DCA, and Lee County no later than one year after the effective date of this Development Order. Further reporting must be submitted every two years for subsequent calendar years thereafter, until buildout, whether actual or declared. Failure to comply with this reporting procedure is governed by F.S. §380.06(18), which provides for the temporary suspension of the DRI Development Order.

The Developer must file the biennial monitoring reports until actual or declared buildout of the project. The SunTrust Bank, Southwest Florida is the party responsible for filing the monitoring reports until one or more successor entities are named in the Development Order. The Developer must inform successors in title to the undeveloped portion of the real property covered by this Development Order of the reporting requirement.

Q. Community Development District. The Developer might elect to petition for the formation of a Uniform Community Development District to serve all or a portion of the project pursuant to Florida Statutes Chapter 190, as it may be in effect from time to time. Lee County hereby gives its approval that any such district may undertake the construction and/or funding of all or any of the mitigation and public infrastructure projects for which the Developer is responsible under the terms of this development order, whether within or without the boundaries of the district, and including the payment of mitigation amounts provided for in this development order, as a co-obligor hereunder. This provision will not be construed to require the approval of any petition to form such a district, and in no event will the Developer be released from its obligations under this Development Order.

R. Transmittal and Effective Date. The County will forward certified copies of this Development Order to the SWFRPC, the Developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but will not be

effective until the expiration of the statutory appeal period (45 days from rendition) or until DCA has completed their review and has determined not to take an appeal should that occur prior to the expiration of the 45-day period or until the completion of any appellate proceedings, whichever time is greater. In accordance with the requirements of F.S. §380.06(15)(f), once this development order is effective, the Developer must record notice of its adoption in the office of the Clerk of the Circuit Court of Lee County.

Commissioner Hall made a motion to adopt the Development Order, seconded by Commissioner Janes. The vote was as follows:

Robert P. Janes Aye
Brian Bigelow Aye
Ray Judah Aye
Tammara Hall Aye
Frank Mann Aye

DULY PASSED AND ADOPTED this 18th day of February, 2008.

ATTEST:
Charlie Green, Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

Marcia Wilson
Deputy Clerk

By: Ray Judah
Ray Judah, Chair



APPROVED AS TO FORM

By: Dawn E. Perry-Lehnert
Dawn E. Perry-Lehnert
County Attorney's Office

- Attachments:
Exhibit A: Legal Description
Exhibit B: Map H
Exhibit C: Annual Monitoring Report Requirements

State of Florida
County of Lee

I Charlie Green, Clerk of the Circuit Court for Lee County, Florida, do hereby certify this document to be a true and correct copy of the original document filed in the Minutes Department.

Given under my hand and official seal at Fort Myers, Florida, this 7th day of March, A.D. 2008

CHARLIE GREEN, CLERK

By: Marcia Wilson
Deputy Clerk

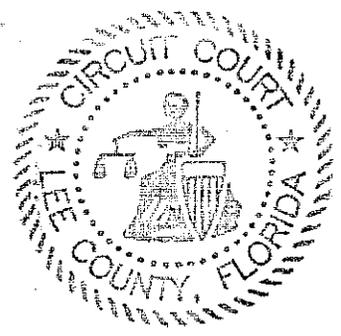


EXHIBIT A

Legal Description of the SunTrust Parcel

**Description of 1.25 Acre Parcel in
Section 11, Township 46 South, Range 25 East
Lee County, Florida**

All that part of Section 11, Township 46 South, Range 25 East, Lee County, Florida, being more particularly described as follows:

COMMENCING at the northwest corner of said Section 11:
thence along the north line of Section 11, S 89°42'24" East 1919.62 feet;
thence leaving said line, S 01°01'21" West 100.53 feet to the centerline of the proposed Treeline Avenue;
thence along said centerline S 01°01'21" West 918.28 feet;
thence continue along said centerline, southerly, 38.52 feet along the arc of a circular curve concave to the northwest, through a central angle of 0°13'15", having a radius of 10,000.00 feet and being subtended by a chord which bears S 01°07'58" West 38.52 feet;
thence leaving said centerline, along a radial line N 88°45'24" West 75.00 feet to the west right-of-way line of Treeline Avenue and the POINT OF BEGINNING of the parcel herein described;
thence continue along said radial line of N 88°45'24" West 256.00 feet to a point on a curve;
thence southerly 209.98 feet along the arc of a circular curve concave to the northwest, having a radius of 9669.00 feet, through a central angle of 01°14'39" and being subtended by a chord which bears S 01°51'55" West 209.98 feet to a point on said curve;
thence along a radial line S 87°30'45" East 256.00 feet to the aforementioned west right-of-way line of Treeline Avenue;
thence northerly, along said curve and said westerly right-of-way line 215.54 feet along the arc of a circular curve concave to the northwest, having a radius of 9925.00 feet, through a central angle 01°14'39" and being subtended by a chord which bears N 01°51'55" East 215.54 feet to the POINT OF BEGINNING of the parcel herein described:

Parcel contains 1.25 acres, more or less.

Subject to easements, restrictions, reservations and rights of way of record.

Bearings shown herein are based on the north line of Section 11, Township 46 South, Range 25 East, Lee County, Florida, being S 89°42'24" East.

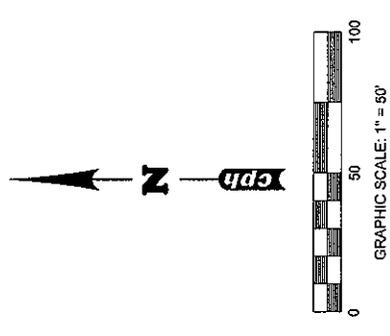
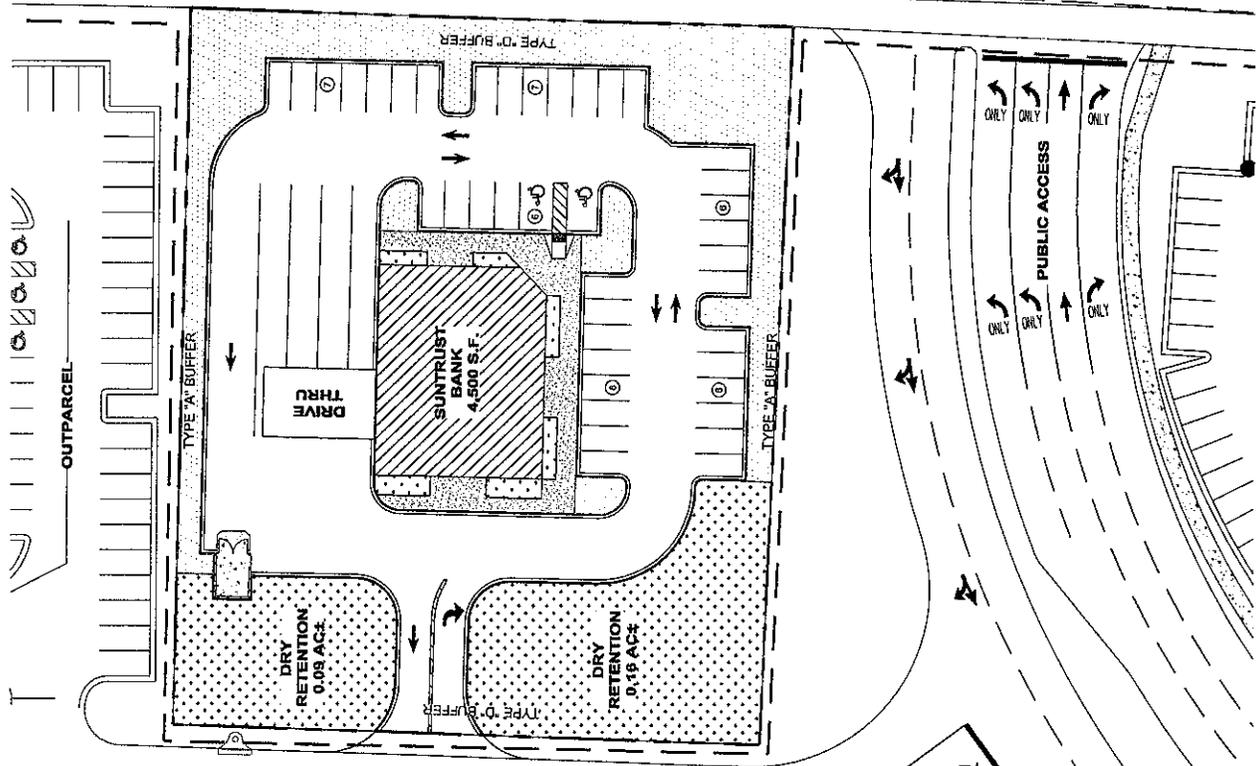
RECEIVED

JUN 05 2007

OCI

2006-00072

COMMUNITY DEVELOPMENT



RECEIVED
 DEC 27 2007
 COMMUNITY DEVELOPMENT

Approved as Exhibit B
 Map H Page 1 of 1
 Resolution # Z-07-051

DRI 2006-00006

EXHIBIT B

KEY

- PROPERTY LINE
- GULF COAST TOWN CENTER
- DRI BOUNDARY

Sheet No. **MAP-H**

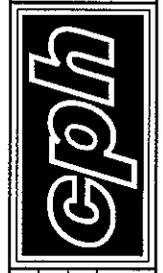
SUNTRUST
 BEN HILL GRIFFIN PKWY @ GULF COAST TOWN CENTER
 FT. MYERS, FL

MASTER DEVELOPMENT PLAN/MAP-H

ENGINEER, P.E.
 REG.#

2211 Peck Street
 Suite 300
 Fort Myers, Florida 33901
 Phone 239 332-5489
 Fax 239 332-2955

Engineers
 Architects
 Surveyors
 Planners
 Landscape Architects
 Environmental Scientists
 Construction Management
 Design / Build



Date: 12/27/07
 Job No. S2557
 File: MCP Map H DEC
 Certificate of Authorization No. 3215
 © 2007

EXHIBIT C

MONITORING REPORT REQUIREMENTS

The Monitoring Report that must be submitted by the Developer in accordance with Subsections 380.06(15) and 380.06(18), Florida Statutes, and 9J-2.025(7), Florida Administrative Code, must include the following:

- A. Any changes in the plan of development or in the representations contained in the application for development approval for the reporting year and for the next year;
- B. A summary comparison of development activity proposed and actually conducted for the two year period;
- C. Identification of undeveloped tracts of land, other than individual single family lots, that have been sold to separate entities or Developers.
- D. Identification and intended use of lands purchased, leased, or optioned by the Developer adjacent to the original DRI site since the development order was issued;
- E. A specific assessment of the Developer's and the local government's compliance with each individual condition of approval contained in the DRI Development Order and the commitments contained in the application for development approval that have been identified by the local government, the RPC, or the DCA as being significant;
- F. Any requests for substantial deviation determination that were filed in the reporting year and to be filed during the following year;
- G. An indication of a change, if any, in local government jurisdiction for any portion of the development since the development order was issued;
- H. A list of significant local, state, and federal permits that have been either obtained or are pending by agency, type of permit, permit number and purpose of each;
- I. A statement that all persons have been sent copies of the report in conformance with Subsections 380.06(15) and (18), Florida Statutes;
- J. A copy of any recorded notice of the adoption of a development order or the subsequent modification of an adopted development order that was recorded by the Developer pursuant to Section 380.06(15)(f), Florida Statutes.

NOTE: The Florida Administrative Code specifically requires that the development order specify the requirements for the report. The Administrative Code requires that the report will be submitted to DCA, the RPC, and the local government on Form RPM-BSP-Annual Report-1.

_____ Agenda
_____ Item

4

Administrative Agenda

4

4

_____ Agenda
_____ Item

4a

Government Owned
Conservation Lands Update

4a

4a

Percentage of Conservation Lands in Southwest Florida

County	Thousands of Acres of Conservation Lands*	Square Miles of Conservation Lands	Land area (square miles)**	Water Area (square miles)**	Total Area of County (square miles)**	Percentage in Conservation
Charlotte	168.39	263.11	693.6	165.5	859.1	30.62
Collier	866.43	1353.8	2025.3	279.6	2304.9	58.73
Glades	90.63	141.61	773.6	212.8	986.4	14.35
Hendry	92.02	143.78	1152.5	37.3	1189.8	12.08
Lee	83.62	130.66	803.6	408.3	1211.9	10.78
Sarasota	91.98	143.72	571.6	153.6	725.2	19.81
Southwest Florida Region	1393.07	2176.68	6020.2	1257.1	7277.3	29.91

Sources: * Florida Natural Areas Inventory 2006, includes land and water conservation areas

** Florida Statistical Abstract 2006 University of Florida Bureau of Economic and Business Research, Warrington College of Business

Prepared by SWFRPC March 11, 2008

_____ Agenda
_____ Item

4b

Visioning Update

4b

4b

4b

_____ Agenda
_____ Item

4c

2007 SWFRPC Annual
Report

4c

4c

_____ Agenda
_____ Item

5

Regional Issues

5

5

_____ Agenda
_____ Item

5a

Impact of Agriculture on
Southwest Florida

5a

5a

_____ Agenda
_____ Item

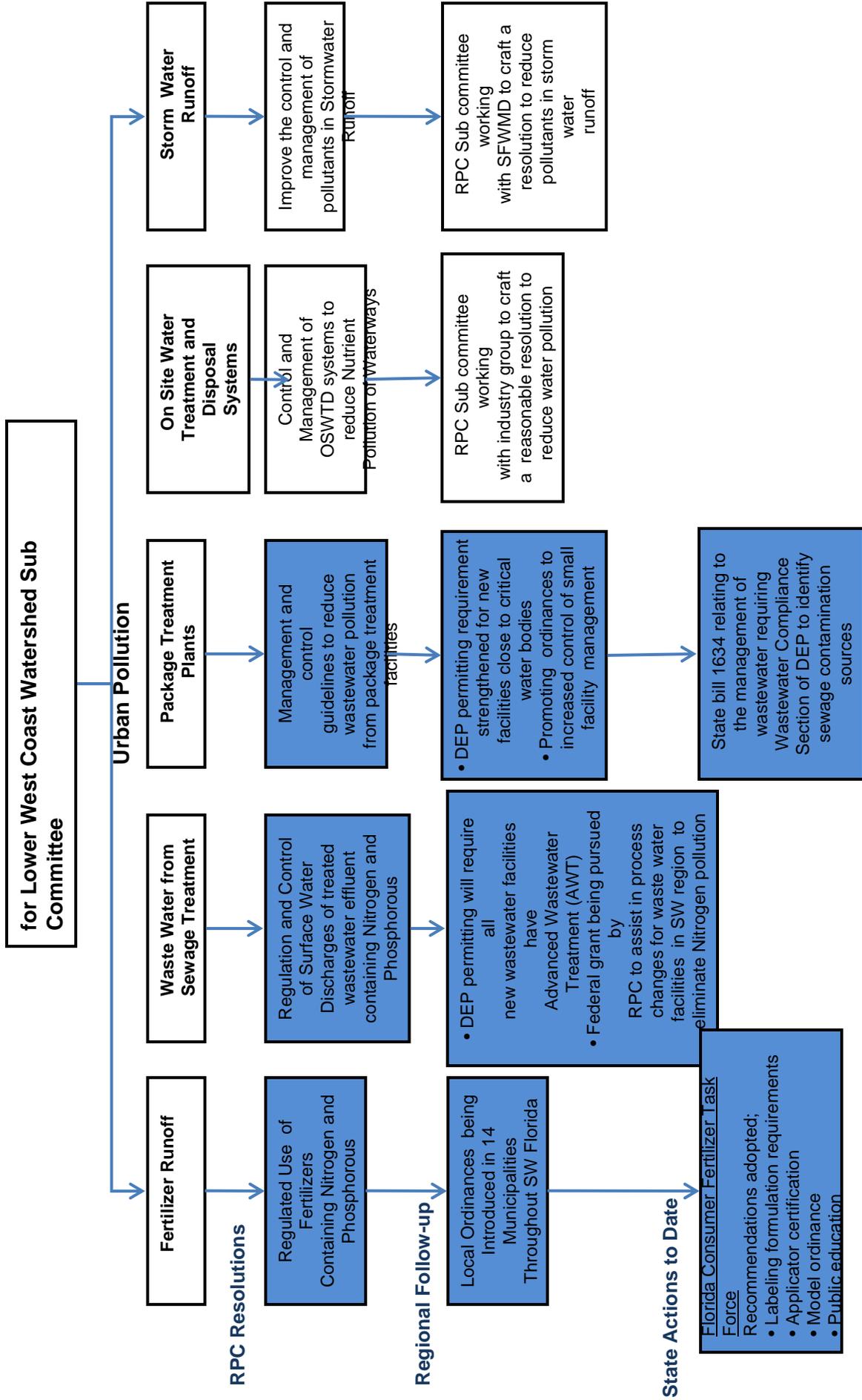
5b

Lower West Coast
Watersheds Subcommittee
Report

5b

5b

Southwest Florida Regional Planning Council - Water Quality Improvement Initiatives



Southwest Florida Regional Planning Council - Water Quality Improvement Initiatives

City Council and Regional Planning Council Actions

Control of polluted Water Releases
Into the Estuary from Lake
Okeechobee

The fight against excess releases from
Lake Okeechobee being waged by

- The City of Sanibel
- Lee County
- The PURRE organization
- and, others

Reduce Urban Water Pollution
Into our Rivers and Estuaries

The fight against urban pollution
A joint effort between

- The City of Sanibel
- Regional Planning Council
- Lee County

Improvement to the State
Healthy Beach Program

Bill being submitted in the
Florida State Legislature to help
Ensure clean beaches
throughout Florida

OSTDS Management: An overview of EPA management models, criteria and financing options

Catherine Corbett & Jaime Boswell
Charlotte Harbor National Estuary Program

Definitions

- **What is an OSTDS (Onsite Sewage Treatment and Disposal System)?**
 - Conventional Septic Systems
 - Aerobic Treatment Units
 - Advanced Systems
- **Decentralized wastewater system** — individual onsite or clustered wastewater systems (commonly referred to as septic systems or “package” plants) used to collect, treat and disperse or reclaim wastewater from individual dwellings, businesses or small communities or service areas
- **Centralized wastewater system** – managed system consisting of collection sewers and a single treatment plant used to collect and treat wastewater from an entire service area

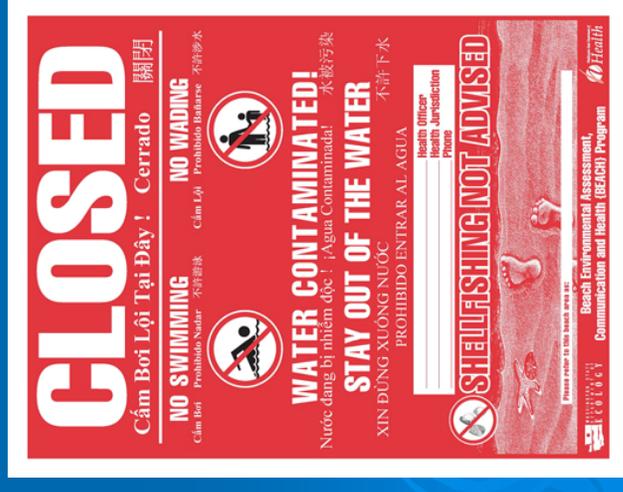
➤ Nutrient Pollution

- Algae Blooms
 - Some are harmful to people, pets & wildlife
 - Can kill large numbers of fish
 - Reduce water clarity
 - Reduce aesthetics & quality of life in SW Florida
 - Not good for tourism
- Nitrates harmful to babies & pregnant women



➤ Pathogen Pollution

- Bacteria & viruses
 - No swimming
 - No Shellfish harvesting
- Potential health concerns
 - Infections
 - Stomach Illnesses
 - Hepatitis



Are OSTDS Systems a Problem?

- **Sources of Pathogens and Nutrients**
 - Include sewer leaks, septic systems, animals, fertilizers
 - expensive and difficult to trace specific sources through monitoring
- **Septic systems require maintenance**
 - Homeowners are not generally aware of proper system care
 - Manufacturers and service providers recommend pumping every 2-3 years
 - EPA - Onsite systems are a viable, environmentally friendly, cost-effective, long-term solution *if designed, sited, and maintained properly*
- **Current local practices for siting septic systems has significantly improved since 1983**
 - older systems may have high (undetected) failure rate

Onsite systems can experience two types of failure:

- Operational Failure: system does not remove wastewater from the home
 - Can affect families health and quality of life – generally taken care of right away
 - Functional Failure: system continues to remove wastewater but does not properly treat the water prior to discharge into the environment
 - Can affect communities health and water quality – generally goes unnoticed by homeowner
- Hard to document functional failure: waste from OSTDS do not glow in the dark
- Currently onus on agencies to document failures
 - Monitoring and analyses are expensive

Poor management of onsite, cluster and small treatment plants has been a driver for centralizing or regionalizing physical wastewater infrastructure for years

“The problems with decentralized and small treatment plants are not intrinsic to their physical scale, rather they reflect inadequate technical, financial and managerial capabilities of their owners or managers, problems that can be addressed with appropriate institutional mechanisms”



The Alternative Option

➤ Managed OSTDS Systems

- Failures are detected and remedied through regular inspections and service or as a result of homeowner education
- Human health risks are greatly reduced
- Water Quality and Environment are protected
- Costs
 - Dependent on management strategy and equipment
 - Maintenance is cheaper than replacement



Do we need management of OSTDS?

- Estimated 114,800 septic systems in Lee County
 - 8,675 new systems in 2006
- ~75,000 in Sarasota County
- ~50,000 in Charlotte County
- Pre-1983 systems are not properly sited
- Homeowners with little understanding of proper maintenance such as regular pump-outs
- Sensitive Environment
- Increasing Nutrients-demonstrated by algae blooms and DO crashes
- Elevated Fecal Coliform-demonstrated by shellfish and beach closures

OSTDS Management

- Incorporates plans for future
- Protects public health & water resources by ensuring pollutants are adequately treated
- Protection of homeowner's investment in property and ability to build home equity
- Protection of a community's image
- Helps with groundwater recharge
- Cost savings over the life of a system, alleviating the need for premature system replacement
- Elimination of need to use community's tax base to finance community-wide wastewater infrastructure
- Can play a part in watershed management and nutrient reductions (e.g., BMAP)

EPA on OSTDS Management to Congress in 1997

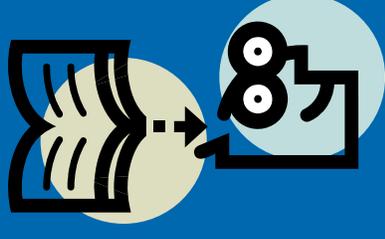
“adequately managed decentralized wastewater treatment systems can be a cost-effective and long-term option for meeting public health and water quality goals, particularly for small towns and rural areas”

- Successful programs have site evaluation, inspection and monitoring processes to ensure regulations are followed

EPA Voluntary National Guidelines for Management of Onsite & Clustered Wastewater Treatment Systems

- Prescriptive versus presumptive criteria
- 5 Management Models
- Variable levels of involvement by homeowners, maintenance providers, and regulatory agencies
- Level of environment and public health protection increases with each level
- Communities pick and choose components of each model to suit individual needs

Model 1: Homeowner Awareness



➤ Objectives

- Ensure that conventional onsite systems are sited and constructed properly
- Ensure that systems are periodically inspected and repaired when necessary by the owner
- Inventory and Maintain records of location of all systems
- Provide Owner/User with notices regarding operation and preventative maintenance

Model 2: Maintenance Contracts



- Objectives
 - Allow use of more complex mechanical treatment options or small clusters
 - Require maintenance service contracts between owner and maintenance provider
 - Ensures appropriate on-time maintenance by qualified professionals
 - Service contract tracking system

Model 3: Operating Permits

- Objectives
 - Renewable/revocable operating permits issued to system owners
 - Require performance measures, maintenance and submittal of reports
 - Performance criteria are set based upon environmental and health considerations
 - Allow variable designs of cluster and onsite systems
- In effect for commercial and advanced treatment systems in Florida 
 - Minimum model recommended by EPA for environmentally sensitive areas (e.g. sites with poor soils, high seasonal water tables, high densities of existing systems, near surface waters or in floodplains)

Model 4: RME Operation & Maintenance

- Objective
 - Maintenance and Operations are performed by a Responsible Management Entity (RME)
 - Must be bonded, but can be public or private
 - Ensures consistent performance and maintenance of onsite systems



Model 5: RME Ownership

➤ Objective

- Responsible Management Entities own, operate and maintain individual and cluster systems within specified service area
- Provides greatest level of protection to the homeowner and to the environment
- Similar to central sewer management

Recommendations:

- **Integrated, Comprehensive Management Plan for all Wastewater systems**
 - Inventory existing treatment systems, then decide:
 - Where will OSTDS be considered a permanent solution for wastewater treatment?
 - Where will centralized systems be constructed? Sensitive areas?
 - Regular updates as needed
 - **Management—How will communities with permanent decentralized systems be managed?**
 - Homeowners
 - Community Associations, cooperatives
 - Regional Management Entity (RME)
 - Local &/or State Government
 - How will management be funded?
 - Public Education
- **Prescriptive vs presumptive criteria for OSTDS siting & design regulations**

Prescriptive Criteria

- Specifies design, installation and other practices for treatment systems for specific sets of site conditions
 - Can include setbacks from waterbodies and separation from groundwater table
- If system meets criteria, system is *presumed* to meet public health and environmental goals of community
 - Criteria do not include site and system evaluation/monitoring to determine efficacy
- Often transplanted from other jurisdictions with the assumption that the criteria would be effective in both places
 - Science needed to verify this based upon local soils and geology is often not gathered
- Criteria are sometimes incorrectly based on the assumption that centralized wastewater collection and treatment services will be available in the future
- Does not account for cumulative effects on groundwater and surface waters, esp. in high density areas

Performance Criteria

- Performance requirements can be numeric (e.g., nitrate concentrations < 15 mg/L) or narrative (e.g., no visible sewage on the ground surface or objectionable odors)
- Requires characterization of wastewater flow and pollutant loads; evaluation of site conditions; defining performance and design boundaries, and then selection of a system design that addresses these factors
- Includes requirements for evaluation/monitoring of system efficacy
- Often difficult to certify the performance of various treatment technologies under the wide range of climates, site conditions, hydraulic loads and pollutant outputs they are subjected to and to predict the fate of those pollutants in the environment

Greatest Challenge: Obtaining Adequate Funding

72% rated funding as #1 obstacle

- Sources of funding
 - 40% User and Other Fees
 - 24% Property and Other Taxes
 - 17% Operational Fees
 - 12% Other funding (includes federal grants)
 - 6% State Grants

Estimated costs

- Program of 1 inspection per every 3 years of conventional systems plus record keeping and reporting annual cost ~\$30 per system
- A robustly staffed, comprehensive program in 1 community (27,000 people) cost \$25 per system per year plus ~ \$65 every 2-12 years for system evaluation, depending on site conditions and previous evaluation results
 - From “Valuing Decentralized Wastewater Technologies” by Rocky Mountain Institute for U.S. EPA 2004

“Financing Your Community’s Onsite Management System”

- CD available from NOPD to assist
communities in identifying resources



Clean Water State Revolving Fund

U.S. Environmental Protection Agency and State Governments

- State sets own policies and procedures
- Florida 2007 Intended Use Plan
 - Non-point source pollution management
 - \$300 million
- Contacts
 - Don.berryhill@dep.state.fl.us
 - Michael.murphree@dep.state.fl.us

Section 319 Non-point Source Management Program U.S. Environmental Protection Agency

- Must be consistent with the state NPS management plan
 - Reduce non-point source pollution in SWIM waterbodies
 - Emphasis on public education about pointless personal pollution
- Contact
 - John.abendroth@dep.state.fl.us

Community Development Block Grant "Small Cities" Program

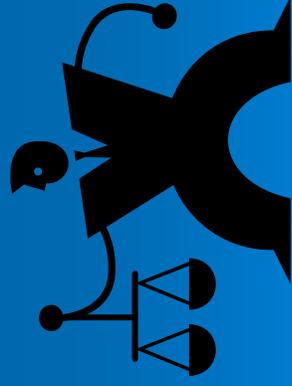
U.S. Department of Housing and Urban Development

- Facilitated through state
- Can be used to “address urgent needs that involve a serious threat to public health”
- Cities <50,000
- Counties <100,000
- Other HUD grants may also be applicable
 - Contact
South Florida - Maria R. Ortiz, Director,
Community Planning & Development Division,
Miami, (305) 536-4431, ext 2223

Solutions from other States

- PA – uses state funds to provide low interest loans to homeowners for repairs
- TX – fines from pollution violations go towards funding reduction programs
- MA
 - Tax credit for homeowners that upgrade systems to meet state standards
 - CWSRF scoring procedures allows for OSTDS management plans to be competitive
- WA – allows CWSRF to fund counties with low interest loans that in turn provide low interest loans to individual homeowners for repairs

How do Septic systems measure up to Sewer?



Which is better financially?

- Sewer
 - Assessment and connection fees~ \$10,000
 - in some cases + interest
 - Monthly utility \$13.35
 - Fixed rate with regular increases
 - Annually \$160
- Septic
 - New System ~ \$8,000 and up
 - Tri-annual service ~ \$300



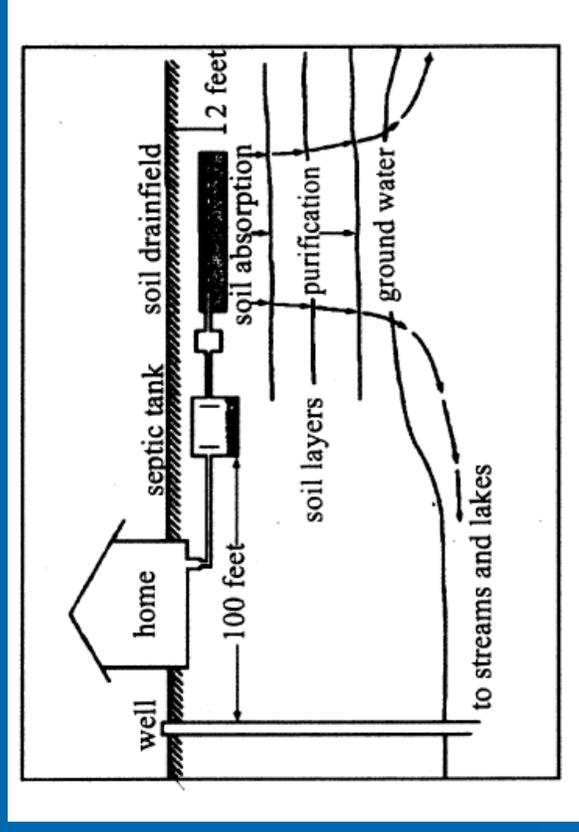
Human Health & Environmental Concerns



- Sewer
 - Large accumulation of waste
 - Point source pollution
 - Where does it discharge? Where to dispose of residuals?
 - Underground Seepage (unknown)
 - (Pinkham et al. 2004 cites water level in Charlotte County, FL sewers in some instances rise and fall with tide)
 - Harm from malfunction can be Large!
 - EPA estimates 40,000 sanitary sewer overflows (SSOs) every year
 - High rainfall, power failures, failing pumps, faulty connections
 - >4,024,000 L from WWTPs in Peace River after hurricanes Charley, Frances and Jeanne (Mallin and Corbett 2006)
 - Biscayne Bay after Hurricane Andrew (Tilmant et al. 1994)
 - Typical septic tank 1,000 gallons

Human Health & Environmental Concerns

- Septic
 - In Florida, 74% of soils have severe or very severe limitations for conventional system designs, based on USDA NRCS criteria (Florida HRS 1993)
 - Example: USDA NRCS rates most of Charlotte County soils as “severe” for septic tank usages due to ponding, percs slowly and high water table; soils typical for this area (CHEC 2003-study funded by CHNEP to look at OSTDS impacts in Peace & Myakka Rivers)



Other issues

- Sewer
 - Centralized systems are unaffordable for many small or poorer communities
 - conventional wastewater treatment facility-not counting sewers-cost to community:
 - <1,000 people approx. \$15-\$20k per connection
 - >10,000 people approx. \$6,000 per connection (English et al. 1999)
 - Tax base could be used for other programs, infrastructure needs or investments
 - Systems can be overbuilt via development projections resulting in debt to community (e.g., Hillsborough, FL)
 - Alter hydrology (wet weather sewer overflows in some areas; water drained away in others)
 - Backlog of deferred maintenance and upgrades

The Pros & Cons...

➤ **Septic Pros**

- Less Costly
- Less Infrastructure
- Localized small failures
- Long lasting **when maintained**
- Groundwater recharge

➤ **Traditional Septic Cons**

- Unmanaged
- Requires space
- Requires proper siting
- Failures may go unrecognized
- Homeowners often are not familiar with proper care

➤ **Sewer Pros**

- Managed treatment
- Higher Density Development
- Problems are easier to track
 - Point Source
- Relies less on homeowner care

➤ **Sewer Cons**

- Costly initial; prohibitive to smaller/poorer communities
- Use govt tax base that could be used elsewhere
- Lots of infrastructure
 - requires easements
- Maintenance & replacement requires disruption to community
- Failures can be huge
- WWTP siting can be controversial
- Where do residuals go?

Local Case Studies



Philippi Creek Septic System Replacement Program

- Sarasota County, FL
- In late 1990s FDEP found the creek impaired for nutrients and bacteria
- Older, established community built in 1950s-1980s (before DOH)
- density averaging 0.25 acre lots
- Program retrofitting ~15,000 septics
- 16 areas
- Started construction of project in 2001
 - Expect to finish no earlier than 2015

Philippi Creek Septic System Replacement Program

- County subsidizing cost to homeowners by obtaining grants and using surtax
- **Costs: \$8,000-\$13,000 per connection**
 - Actual cost to homeowners: \$5,000-\$6,000
- **Total Cost of program: \$150 million**
 - Not including transmission and treatment plant costs
 - Pumps to bring some individual houses to grade estimated lifespan 5 years

Charlotte County, FL (pop. 140,000 in 2000)

- Problem – abundance of relatively small lots in areas with high water table and poor soil conditions
 - 1988 State rejected county's comprehensive plan -> water and sewer study
 - Proposed sewer expansion to all service areas met extreme opposition due to cost and unsubstantiated need

Charlotte County, FL

- Solutions
 - Revised Comprehensive Plan in 1997
 - Mini-expansions of sewer service
 - Require aerobic systems on small lots and lots near surface water, or density reduction through purchase of double lots with conservation easement – taxed for single lot
 - Planned to develop septic system management plan
 - Planned to develop water quality monitoring program
 - County Ordinance approved Oct 6, 1998.

Charlotte County, FL

- Results
 - Small scale sewer expansion targets areas where it is cost effective
 - Ordinance originally met opposition, but is now more accepted by builders and realtors.
 - County Health Department is beginning a targeted water quality monitoring program
 - Septic systems have been mapped and details cataloged in a GIS database.



Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems



Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems

Office of Water
Office of Research and Development
U.S. Environmental Protection Agency



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EXECUTIVE SUMMARY

The performance of onsite and clustered (decentralized) wastewater treatment systems is a national issue of great concern to the Environmental Protection Agency (EPA). Decentralized systems are used in 25 percent of the homes in the United States and 33 percent of new development, and they are permanent components of our nation's wastewater infrastructure. Decentralized wastewater treatment systems are defined here as managed individual onsite or clustered wastewater systems (commonly referred to as septic systems, private sewage systems, individual sewage treatment systems, onsite sewage disposal systems, or "package" plants) used to collect, treat, and disperse or reclaim wastewater from individual dwellings, businesses, or small communities or service areas. Unfortunately, many of the systems in use are improperly managed and do not provide the level of treatment necessary to adequately protect public health and surface and ground water quality. Proper management of decentralized systems involves implementation of a comprehensive, life-cycle series of elements and activities that address



public education and participation, planning, performance, site evaluation, design, construction, operation and maintenance, residuals management, training and certification/licensing, inspections and monitoring, corrective actions, recordkeeping/inventorying/reporting, and financial assistance and funding.

Therefore, EPA is issuing *Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems* (referred to

as the Management Guidelines) to enhance the performance and reliability of decentralized wastewater treatment systems through improved

management programs. The Management Guidelines will help improve system performance by encouraging institutionalizing the concept of management; raising the quality of state, tribal, and local management programs; and suggesting minimum levels of activity. Adequately managed decentralized systems that protect the environment and public health can provide an alternative to centralized wastewater treatment systems. EPA continues to support the most sustainable approach to implementing protective water pollution control solutions whether it be centralized or decentralized. The Management Guidelines are intended to be used when a decision to implement a decentralized approach is or has been made. They complement any other applicable federal, state, tribal, or local government requirements, including the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act (CWA) and the Underground Injection Control (UIC) program under the Safe Drinking Water Act (SDWA).

EPA intends that state, tribal, and local authorities use the Management Guidelines, along with other applicable federal requirements, to help communities in meeting water quality and public health goals. The Management Guidelines can be integrated into a comprehensive watershed approach at the state, tribal, or local government level. The benefits of an adequate

Decentralized systems are used in 25% of U.S. homes and are permanent components of our nation's wastewater infrastructure.

management program include protection of water quality and public health, protection of consumers' investment in home and business ownership, increased

Not in My Septic System!

X Cloggers

diapers, cat litter, cigarette filters, coffee grounds, grease, feminine hygiene products, etc.

X Killers

household chemicals, gasoline, oil, pesticides, antifreeze, paint, etc.

onsite system service life and replacement cost savings, avoidance of transfers of water away from the source by conserving ground water, and elimination of the need to use a community's tax base to finance sewers. As noted above, and in more detail later in this document, proper management is a comprehensive term for achieving the long-term sustainability of a system, including adequate

operation and maintenance of the system. Although implementation of the Management Guidelines is voluntary, EPA strongly encourages considering them as a template in strengthening existing management programs and implementing new ones.

Unfortunately, although some management programs are effective, many existing state, tribal, and local rules that regulate onsite systems are not adequate to ensure proper performance. "Failure" of onsite systems is a term subject to much debate; however, 1995 U.S. Census data report that over 10 percent of all systems back up into homes or have wastewater emerging on the ground surface, and that more than half the systems in the United States were installed more than 30 years ago when onsite rules were nonexistent or poorly enforced. Few systems receive proper maintenance because homeowners are either unaware of the need for maintenance or find it a distasteful task. In addition, most regulatory programs

do not require homeowner accountability for system performance after installation. Although it is difficult to measure and document specific cause-and-effect relationships between onsite wastewater treatment systems and the quality of our water resources, it is widely accepted that improperly managed systems contribute to major water quality problems. The *National Water Quality Inventory 1996 Report to Congress* states that "improperly constructed and poorly maintained septic systems are believed to cause substantial and widespread nutrient and microbial contamination to ground water." Ultimately it is the absence of a comprehensive management program addressing each of these issues that prevents onsite and clustered (decentralized) systems from being considered as an effective and reliable wastewater treatment strategy. Consequently, the potential for health and water quality problems from poorly managed systems is increasing.

If effectively implemented by state, tribal, and local governments, the Management Guidelines might provide for a viable, long-term option for meeting public health and water quality goals, particularly for small and rural communities. In addition, appropriate

Few systems receive proper maintenance... most regulatory programs do not require homeowner accountability for system performance.

management programs will support the activities and approaches being used in other EPA programs and contribute toward achievement of mutual water quality and public health goals. These programs include Watershed Management, National Pollutant Discharge Elimination System, Biosolids and Residuals Management, Storm Water Management, Water Quality Management (including Total Maximum Daily Loads, or TMDLs), Water Quality Standards, Source Water Assessment and Protection, Underground Injection Control, Coastal Zone Management, Nonpoint Source Control Program, and Technology Transfer.

In deciding whether to use onsite systems, it is important to consider the risks they might pose to the

environment and public health. There may be cases where onsite systems are not appropriate because of the environmental sensitivity or public health concerns of an area. In the cases where onsite systems are appropriate, it is critical that they be managed to prevent environmental and public health impacts.

Five management models are provided as conceptual approaches with progressively increasing management controls as sensitivity of the environment and/or treatment system complexity increases (see box below). Each model consists of 13 critical elements that describe activities to be performed to achieve the management goal. The purpose of the models is to provide a guide to match the needed management controls to the potential

public health and water quality risks presented by decentralized systems in a particular area. The models are flexible so that programs can be customized by substituting elements of one program into another to accommodate local needs, practices, and conditions. The models are built around ensuring the accountability and competency of regulators and service providers through certification and continuing education, owners through education and/or inspection requirements, and third-party managers through contract and permit stipulations to achieve their goals. The “best” model program for a community is not necessarily in the higher levels, but rather is the model that provides the most appropriate management controls for the potential risks.

The Five Management Models

- **Management Model 1 - “Homeowner Awareness”** specifies appropriate program elements and activities where treatment systems are owned and operated by individual property owners in areas of low environmental sensitivity. This program is adequate where treatment technologies are limited to conventional systems that require little owner attention. To help ensure that timely maintenance is performed, the regulatory authority mails maintenance reminders to owners at appropriate intervals.
- **Management Model 2 - “Maintenance Contracts”** specifies program elements and activities where more complex designs are employed to enhance the capacity of conventional systems to accept and treat wastewater. Because of treatment complexity, contracts with qualified technicians are needed to ensure proper and timely maintenance.
- **Management Model 3 - “Operating Permits”** specifies program elements and activities where sustained performance of treatment systems is critical to protect public health and water quality. Limited-term operating permits are issued to the owner and are renewable for another term if the owner demonstrates that the system is in compliance with the terms and conditions of the permit. Performance-based designs may be incorporated into programs with management controls at this level.
- **Management Model 4 - “Responsible Management Entity (RME) Operation and Maintenance”** specifies program elements and activities where frequent and highly reliable operation and maintenance of decentralized systems is required to ensure water resource protection in sensitive environments. Under this model, the operating permit is issued to an RME instead of the property owner to provide the needed assurance that the appropriate maintenance is performed.
- **Management Model 5 - “RME Ownership”** specifies that program elements and activities for treatment systems are owned, operated, and maintained by the RME, which removes the property owner from responsibility for the system. This program is analogous to central sewerage and provides the greatest assurance of system performance in the most sensitive of environments.



The legal authority for regulating onsite and clustered (decentralized) wastewater treatment systems generally rests with state, tribal, and local governments. EPA recognizes that these units of government need

It is important to note that the management program models are not intended to supersede existing federal, state, tribal, or local laws and regulations.

a flexible framework and guidance to tailor their programs to the specific needs of communities and watersheds. Although each management program model stands alone, the models are intended only to

be guides in developing an appropriate management program. Activities in program elements of higher-level models may be incorporated into lower-level programs to assist the local program in achieving its desired objectives. Also, it is possible to implement more than one management program model within a jurisdiction as appropriate for the circumstances encountered, such as housing density, receiving environment characteristics, new development, high-volume or high-strength wastewaters, and so forth. Management models may also be implemented in conjunction with centralized wastewater treatment and collection. It is important to note that the management program models are not intended to supersede existing federal, state, tribal, or

local laws and regulations, but rather to complement them in protecting public health and water quality.

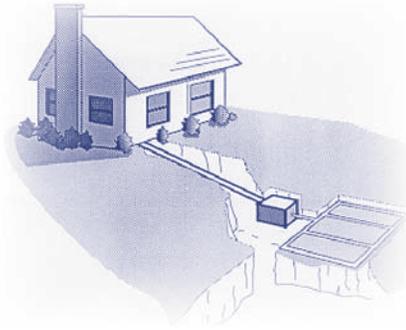
To assist state, tribal, and local units of government in evaluating and upgrading their onsite and clustered (decentralized) wastewater management programs, a draft *Handbook for Management of Onsite and Clustered (Decentralized) Wastewater Treatment Systems* (referred to as the Management Handbook) complements the Management Guidelines. The draft Management Handbook includes case studies and examples of materials used by communities that have implemented management programs effectively.

Substantial resources are available as well, including EPA's *Onsite Wastewater Treatment Systems Manual*, to assist regulatory agencies and communities in assessing the technical foundation of the elements and activities in their existing or considered management programs.

INTRODUCTION

What Is the Purpose of the Voluntary National Management Guidelines?

EPA has developed the *Voluntary National Guidelines for Management of Onsite and Clustered (Decentralized)*



Wastewater Treatment Systems to raise the level of performance of onsite and clustered wastewater treatment systems through improved

management programs. Decentralized wastewater treatment systems are defined here as individual onsite or clustered wastewater systems (commonly referred to as septic systems, private sewage systems, individual sewage treatment systems, onsite sewage disposal systems, or “package” plants) used to collect, treat, and disperse or reclaim wastewater from individual dwellings, businesses, or small communities and service areas. Such systems may provide an alternative to conventional centralized wastewater systems. However, any onsite or clustered wastewater treatment system that discharges pollutants from a point source to waters of the United States is subject to the National Pollutant Discharge Elimination System (NPDES) program under the Clean Water Act (CWA). Such discharge is illegal and subject to enforcement action unless it is authorized by an NPDES permit issued by an authorized state or tribe or by EPA. Onsite and clustered

systems can be protective of public health and water quality if they are properly planned, sited, designed, constructed, installed, operated, and maintained. EPA is issuing this guidance to raise the quality of management programs, suggest minimum levels of activity, and encourage institutionalizing the concept of management. Implementation of the Management Guidelines can help communities meet water quality and public health goals, provide a greater range of options for cost-effectively meeting wastewater needs, and protect consumers’ investment in home and business ownership. In a number of instances, decentralized wastewater treatment systems without proper management programs have failed in the long term because of lack of proper operation and/or maintenance and have had to be replaced by centralized systems. If centralized collection

EPA continues to support the most environmentally sound and cost-effective approach to implementing protective water pollution control solutions whether it be centralized or decentralized. The Management Guidelines are intended to be used when the decision is to implement a decentralized approach.

systems are feasible, decentralized systems are recommended only where there is assurance of an enforceable management system consistent with this strategy, including long-term financial and technical capacity for operation and maintenance.

These Management Guidelines are not intended to supercede any otherwise applicable federal, state, tribal, or local requirements. Also, the decision on use of centralized or decentralized wastewater treatment is one to be made at the state, tribal, or local level after consideration of a number of factors.

Please note that the statutes and regulations described in this document contain legally binding requirements. The guidance provided in this document does not substitute for those statutes or regulations. These Management

Guidelines are strictly voluntary and, by themselves, do not impose legally binding requirements on EPA, state, local, or tribal governments or members of the public and, based upon the circumstances, may not apply to a particular situation. Although EPA strongly recommends the approach outlined in this document, state and local decision makers are free to adopt approaches that differ from these Management Guidelines.

What Is Management?

Management of decentralized systems is implementation of a comprehensive, life-cycle series of elements and activities that address public education and participation, planning, performance, site evaluation, design, construction, operation and maintenance, residuals management, training and certification/licensing, inspections/monitoring, corrective actions,



recordkeeping/
inventorying/
reporting, and
financial assistance
and funding.
Therefore, a
management program

involves, in varying degrees, regulatory and elected officials, developers and builders, soil and site evaluators, engineers and designers, contractors and installers, manufacturers, pumpers and haulers, inspectors, management entities, and property owners. Establishing the distinct roles and responsibilities of the partners involved is very important to ensuring proper system management.

Who Can Benefit from the Management Guidelines?

The Management Guidelines contain a set of management models, based on a comprehensive approach that relies on coordinating responsibilities and actions among the state, tribal, or local regulatory agency, the management entity or service provider,

and the system owner. EPA recognizes the importance of each party in improving management programs and encourages identification of distinct and separate roles and responsibilities when implementing management programs. The primary audiences for these Management



Guidelines are state, tribal, and local regulators and community officials who are responsible for regulating onsite and clustered systems. The secondary audiences include planners, designers, installers, operators, pumpers, haulers, management entities, and inspectors.

In particular, local communities with a need to improve system performance should consider these Management Guidelines as a first step in evaluating their existing programs. EPA also encourages state and tribal agencies that regulate onsite and clustered systems to evaluate their existing programs and address the program elements and activities detailed in these management models in their regulatory/management function. Although very important to implementation of a management program, owner responsibilities are not discussed here in detail. Materials to help owners improve management of their systems are provided in EPA's draft Management Handbook, which is being issued concurrently with these Management Guidelines.

To What Types of Systems Are the Guidelines Relevant?

The Management Guidelines are relevant to both existing communities and areas of new development that use onsite and clustered systems of any size for

residential and commercial wastewater treatment and dispersal. Centralized collection and treatment facilities are not addressed here. Industrial wastewater treatment systems are also not addressed because many industrial wastes are prohibited by federal and state regulation from using onsite treatment and dispersal, because of the potential to interfere with wastewater treatment, and/or to pollute ground water resources.



These Management Guidelines are not intended to be used to determine appropriate or inappropriate uses of land. The information in the Management Guidelines is intended to be used to help select appropriate management strategies and technologies that minimize risks to human health and water resources in areas where connections to centralized wastewater collection and treatment systems are not considered appropriate. The determination of appropriate siting requirements, system density restrictions, or required technologies is a state, tribal, or local decision. Substantial resources are available to ensure these decisions are sound; they are detailed in the draft Management Handbook.

What Are Management Guidelines?

These Management Guidelines consist of five models that are structured to reflect an increasing need for more comprehensive management as the sensitivity of the environment or the degree of technological complexity increases. A management program's intensity increases progressively from one management model to another, reflecting the increased level of management activities needed to achieve water quality and public health goals. A community would establish a management level

that is sufficient for its management needs. Although adoption of the Management Guidelines is voluntary, EPA strongly encourages communities to consider the Management Guidelines as a basis for their onsite and clustered wastewater management programs because of the public health and water quality concerns associated with these systems.

Why Are Management Guidelines Needed?

The performance of onsite and clustered wastewater treatment systems is a national issue of great concern to EPA. Onsite and clustered wastewater treatment systems

More than half the existing onsite systems are over 30 years old, and surveys indicate at least 10 percent of these systems back up onto the ground surface or into the home each year.

serve approximately 25 percent of U.S. households (about 25 million) and approximately 33 percent of new development.⁽¹⁾ Onsite and clustered systems can provide a high level of public health and natural resource

protection if they are properly planned, sited, designed, constructed, operated, and maintained.

Unfortunately, many of the systems in use do not provide the level of treatment necessary to adequately protect public health or surface and ground water quality. Many were initially sited and installed as temporary solutions as a result of the perception that centralized treatment and collection would soon replace them. Comprehensive, life-cycle management did not play a role in the approval or the ongoing operation of many systems. More than half the existing onsite systems are over 30 years old, and surveys indicate at least 10 percent of these systems back up onto the ground surface or into the home each year.⁽¹⁾ Other data have shown that at least 20 percent of systems are malfunctioning to some degree.⁽²⁾ In most cases the homeowner is not aware

of a system failure until sewage backs up into the home or breaks out on the ground surface. In many places, local authorities lack records of many of the systems in the service area.

Although it is difficult to measure and document specific cause-and-effect relationships between onsite wastewater treatment systems and the quality of our water resources, it is widely accepted that improperly managed systems (resulting from inadequate siting, design, construction, installation, operation, and/or maintenance) contribute to major water quality problems. As documentation becomes available concerning the source of impairments, EPA will be better able to determine the extent of the relationship. It is already evident that improved operation and performance of onsite and clustered systems through better management practices will be essential if the nation's water quality and public health goals are to be attained.

In the *National Water Quality Inventory: 1996 Report to Congress*, state agencies designated the top 10 potential contaminant sources that threaten their ground water resources. The second most frequently cited contamination source was septic systems. The



report states that “improperly constructed and poorly maintained septic systems are believed to cause substantial and widespread nutrient and

microbial contamination to ground water.” Other contaminant sources identified by states included underground storage tanks, landfills, large industrial facilities, and numerous other activities.⁽³⁾ States also identified more than 500 communities in the *1996 Clean Water Needs Survey*⁽⁴⁾ as having failed septic

systems that have caused public health problems. In 1996 states reported septic systems as a leading source of pollution for more than one-third (36 percent) of the impaired miles of ocean shoreline surveyed.⁽³⁾ Other leading sources included urban runoff and storm sewers, municipal sewer discharges, and industrial point sources. In U.S. classified shellfish growing areas, closures and harvest restrictions have occurred primarily because of “the concentration of fecal coliform bacteria associated with human sewage and with organic wastes

The second most frequently cited contamination source (of ground water) is septic systems.

from livestock and wildlife.” The 1995 National Shellfish Register indicated that the most common pollution source cited for shellfish restrictions

was urban runoff (principal or contributing factor in 40 percent of all harvest-limited growing areas), followed by unidentified upstream sources (39 percent), wildlife (38 percent) and septic tanks (32 percent).⁽⁵⁾ Onsite wastewater treatment systems might also be contributing to an overabundance of nutrients in ponds, lakes, and coastal estuaries, leading to overgrowth of algae and other nuisance aquatic plants. For example, the 45,000 septic systems in Sarasota County, Florida, contribute four times more nitrogen to Sarasota Bay than the City of Sarasota's advanced wastewater treatment plant.⁽⁶⁾

Onsite and clustered wastewater treatment systems also contribute to contamination of drinking water sources. EPA estimates that 168,000 viral illnesses and 34,000 bacterial illnesses occur each year as a result of consumption of drinking water from systems that rely on improperly treated ground water.⁽⁷⁾ The contaminants of primary concern in EPA's study of ground water-based drinking water systems are waterborne pathogens from fecal contamination. Malfunctioning septic systems are identified as a potential source of this contamination;

other sources could include leaking or overflowing sanitary sewer lines, as well as storm water runoff. A recent example of contamination involved nearly 800



visitors to a fair in Washington County, New York, who became ill after consuming water from a well source that had likely been contaminated by a septic system at an adjacent dormitory. Other examples in which pollution was attributed to septic

systems include 82 cases of shigellosis resulting from a contaminated well in Island Park, Idaho, in 1995; 46 cases of hepatitis A from a privately owned water supply in Racine, Missouri; and 49 cases of hepatitis A in Lancaster, Pennsylvania, in 1980.⁽⁶⁾ EPA is concerned about the presence of nitrates in ground water, particularly in rural areas where residents must rely on individual wells and onsite systems to serve relatively small lots.

What Are the Benefits of a Management Program?

Benefits of a management program are accrued by both the communities developing effective management programs and the individual property owners. They include the following:

- **Protection of public health and local water resources.** Although unquantified, septic system failures in the form of yard backups have been recognized as a public health hazard and an insult to natural resources for many years. Improved management practices will minimize the occurrence of failures by ensuring (with proper planning, siting, design, installation, operation and maintenance, and monitoring) that pollutants are adequately treated and dispersed into the



environment, thereby reducing risks to public health and local water resources.

- **Protection of property values.** There are many documented instances over the past few decades of property values increasing in areas formerly served by failing onsite systems after the area has been sewered. Management programs offer an opportunity to obtain the same level of service and aesthetics as sewered communities at a fraction of the cost, thus providing property appreciation and cost savings.
- **Ground water conservation.** A well-managed onsite system will contribute to ground water recharge. Many areas of the United States that have undergone rapid development and sewerage are experiencing rapidly declining water tables or water shortages because ground water is no longer being recharged by onsite systems.
- **Preservation of tax base.** A well-managed onsite system will prevent small communities from having to finance the high cost of centralized sewers. Many small communities have exhausted their tax base, at the expense of other public safety and education programs, to pay for those sewers. Many communities then entice growth in an effort to pay for the systems, thus destroying the community structure that originally attracted residents.

- **Life-cycle cost savings.** There is a clear indication that in many cases management may pay for itself in terms of lower failure rates and alleviation of the need for premature system replacement; however, this will depend on the types of systems employed and the management program chosen. Documentation of that savings is only now being initiated.

How Were the Management Guidelines Developed?

In April 1997 EPA published its *Response to Congress on Use of Decentralized Wastewater Treatment Systems*, which concluded that, overall, “adequately managed decentralized wastewater treatment systems are a



cost-effective and long-term option for meeting public health and water quality goals, particularly in less densely populated areas [small and rural

communities].”⁽⁹⁾ EPA stated that both centralized and decentralized system alternatives should be considered when upgrading failing onsite systems. The report found

Adequately managed decentralized wastewater treatment systems are a cost-effective and long-term option for meeting public health and water quality goals.

that decentralized systems can protect public health and the environment, typically have lower capital and maintenance costs for low-density communities, are appropriate for varying site conditions,

and are suitable for ecologically sensitive areas when adequately managed.

More important, EPA identified several major barriers to the increased use of these systems, including the lack of adequate management programs. Most onsite



and clustered systems are regulated at the state, tribal, or local level, not at the federal level, and there is a great deal of inconsistency in the regulatory approaches. Many existing management programs are inadequate or too narrow in focus, allowing premature system failures to occur. Although the varying reasons for system failure may include shortcomings in siting, design, construction, operation, or maintenance, it is ultimately the absence of a comprehensive management program—which addresses each of these issues—that prevents onsite and clustered systems from reaching their potential as an effective, reliable wastewater treatment strategy.

RELATIONSHIP TO OTHER WATER PROGRAMS



These Management Guidelines will help support the activities and approaches being applied in several other EPA programs and contribute toward achieving mutual water quality objectives and public health protection goals. The Management Guidelines complement any applicable regulatory authority under the Clean Water Act (CWA), Safe Drinking Water Act (SDWA), Coastal Zone Management Act/Coastal Zone Act Reauthorization Amendments of 1990 (CZMA/CZARA), or any other federal law. For example, there are certain situations where use of these Management Guidelines includes authorization under an NPDES permit, which is required for all discharges of pollutants from a point source to waters of the United States.

Related programs include, among others, Watershed Management, National Pollutant Discharge Elimination System, Biosolids and Residuals Management, Storm Water Management, Water Quality Management (including Total Maximum Daily Loads, or TMDLs), Water Quality Standards, Source Water Assessment and Protection, Underground Injection Control, Coastal Zone Management, Nonpoint Source Control Program, and Technology Transfer. The relationship of the Management Guidelines to these companion programs is summarized in Appendix B.

DESCRIPTION OF MANAGEMENT MODELS

Introduction

The Management Guidelines consist of a series of five management models. As the models progress from the Homeowner Awareness Model to the Responsible Management Entity (RME) Ownership Model, they reflect the need for improved management practices and increased oversight as determined by the complexity of



treatment systems employed and the potential risks to public health and water resources. For example, the Homeowner Awareness Model recommends management

practices for areas where the risks to public health and water resources are low and the suitable treatment technologies are passive and robust. The RME Ownership Model, on the other hand, defines an appropriate level of practice and oversight for communities where there are significant risks to public health or water resources. Table 1, “Summary of Management Models,” presents a brief description of each management model. The table presents the management program objectives, provides a brief description of the types of systems applicable, and lists the major benefits and limitations of each of the five management models.

Key Concepts

The Management Guidelines contain certain key concepts that are the foundation of changes needed to improve the performance of decentralized wastewater

Key Concepts

- **An increase in the level of management as the level of risk and technical complexity increase**
- **Inventorying** existing systems and their level of performance as a minimum
- **Operating permits** for large systems and clusters of onsite systems
- **Discharge permits** for systems that discharge to surface waters
- Increased requirements for **certification and licensing** of practitioners
- Elimination of **illicit discharges** to storm drains or sewers

treatment systems (see box above). These concepts are imbedded in the activities of each management model and have the potential to make a difference in the field.

Management Models

Tables 1 through 5 in Appendix A describe the management models, which include the objective or goal to be reached and an accompanying set of program elements and activities appropriate for achieving the stated objectives. The management models provide benchmarks for a state, tribal, or local unit of government to (1) select appropriate management objectives to meet its wastewater treatment needs, (2) evaluate the strengths and weaknesses of its current program in achieving the desired objectives, (3) design a management program and activities needed to meet unique local

Table 1: Summary of Management Models

TYPICAL APPLICATIONS	PROGRAM DESCRIPTION	BENEFITS	LIMITATIONS
MODEL 1 - HOMEOWNER AWARENESS MODEL			
<ul style="list-style-type: none"> Areas of low environmental sensitivity where sites are suitable for conventional onsite systems. 	<ul style="list-style-type: none"> Systems properly sited and constructed based on prescribed criteria. Owners made aware of maintenance needs through reminders. Inventory of all systems 	<ul style="list-style-type: none"> Code-compliant system. Ease of implementation; based on existing, prescriptive system design and site criteria. Provides an inventory of systems that is useful in system tracking and area-wide planning. 	<ul style="list-style-type: none"> No compliance/problem identification mechanism. Sites must meet siting requirements. Cost to maintain database and owner education program.
MODEL 2 - MAINTENANCE CONTRACT MODEL			
<ul style="list-style-type: none"> Areas of low to moderate environmental sensitivity where sites are marginally suitable for conventional onsite systems due to small lots, shallow soils, or low-permeability soils. Small clustered systems. 	<ul style="list-style-type: none"> Systems properly sited and constructed. More complex treatment options, including mechanical components or small clusters of homes. Requires service contracts to be maintained. Inventory of all systems. Service contract tracking system. 	<ul style="list-style-type: none"> Reduces the risk of treatment system malfunctions. Protects homeowner investment. 	<ul style="list-style-type: none"> Difficulty in tracking and enforcing compliance because it must rely on the owner or contractor to report a lapse in a valid contract for services. No mechanism provided to assess effectiveness of maintenance program.
MODEL 3 - OPERATING PERMIT MODEL			
<ul style="list-style-type: none"> Areas of moderate environmental sensitivity such as wellhead or source water protection zones, shellfish growing waters, or bathing/water contact recreation. Systems treating high-strength wastes or large-capacity systems. 	<ul style="list-style-type: none"> Establishes system performance and monitoring requirements. Allows engineered designs but may provide prescriptive designs for specific receiving environments. Regulatory oversight by issuing renewable operating permits that may be revoked for noncompliance. Inventory of all systems. Tracking system for operating permit and compliance monitoring. Minimum for large-capacity systems. 	<ul style="list-style-type: none"> Allows systems in more environmentally sensitive areas. Operating permit requires regular compliance monitoring reports. Identifies noncompliant systems and initiates corrective actions. Decreases need for regulation of large systems. Protects homeowner investment. 	<ul style="list-style-type: none"> Higher level of expertise and resources for regulatory authority to implement. Requires permit tracking system. Regulatory authority needs enforcement powers.
MODEL 4 - RESPONSIBLE MANAGEMENT ENTITY (RME) OPERATION AND MAINTENANCE MODEL			
<ul style="list-style-type: none"> Areas of moderate to high environmental sensitivity where reliable and sustainable system operation and maintenance (O&M) is required, e.g., sole source aquifers, wellhead or source water protection zones, critical aquatic habitats, or outstanding value resource waters. Clustered systems. 	<ul style="list-style-type: none"> Establishes system performance and monitoring requirements. Professional O&M services through RME (either public or private). Provides regulatory oversight by issuing operating or NPDES permits directly to the RME. (System ownership remains with the property owner.) Inventory of all systems. Tracking system for operating permit and compliance monitoring. 	<ul style="list-style-type: none"> O&M responsibility transferred from the system owner to a professional RME that is the holder of the operating permit. Identifies problems needing attention before failures occur. Allows use of onsite treatment in more environmentally sensitive areas or for treatment of high-strength wastes. Can issue one permit for a group of systems. Protects homeowner investment. 	<ul style="list-style-type: none"> Enabling legislation may be necessary to allow RME to hold operating permit for an individual system owner. RME must have owner approval for repairs; may be conflict if performance problems are identified and not corrected. Need for easement/right of entry. Need for oversight of RME by regulatory authority.
MODEL 5 - RESPONSIBLE MANAGEMENT ENTITY (RME) OWNERSHIP MODEL			
<ul style="list-style-type: none"> Areas of greatest environmental sensitivity where reliable management is required. Includes sole source aquifers, wellhead or source water protection zones, critical aquatic habitats, or outstanding value resource waters. Preferred management program for clustered systems serving multiple properties under different ownership (e.g., subdivisions). 	<ul style="list-style-type: none"> Establishes system performance and monitoring requirements. Professional management of all aspects of decentralized systems through public/private RMEs that own or manage individual systems. Qualified, trained, owners and licensed professional owners/operators. Provides regulatory oversight by issuing operating or NPDES permit. Inventory of all systems. Tracking system for operating permit and compliance monitoring. 	<ul style="list-style-type: none"> High level of oversight if system performance problems occur. Simulates model of central sewerage, reducing the risk of noncompliance. Allows use of onsite treatment in more environmentally sensitive areas. Allows effective area-wide planning/watershed management. Removes potential conflicts between the user and RME. Greatest protection of environmental resources and owner investment. 	<ul style="list-style-type: none"> Enabling legislation and/or formation of special district may be required. May require greater financial investment by RME for installation and/or purchase of existing systems or components. Need for oversight of RME by regulatory authority. Private RMEs may limit competition. Homeowner associations may not have adequate authority.

Note: If applicable, NPDES requirements under the CWA or UIC requirements under the SDWA supercede any less stringent or inconsistent provision.

objectives, and (4) develop a plan for implementing the management program. The draft Management Handbook, which is being issued concurrently with these Management Guidelines, provides detailed guidance on how to select, evaluate, develop, and implement the Management Guidelines.

Evaluation of Risk

In deciding whether to use onsite systems, it is important to consider the risks they may pose to the environment and public health. There may be cases where onsite systems are not appropriate because of the environmental sensitivity or public health concerns of an area. In the cases where onsite systems are appropriate, it is critical that they be managed to prevent environmental and public health impacts. All of the



management models share the common goal of ensuring that public health and water resources are protected. Effective implementation of management programs requires coordination among state, tribal, and local water quality, public health, and planning and zoning agencies, and community officials. EPA continues to encourage this coordination on a watershed basis. Zoning ordinances and land use planning are also mechanisms that state, tribal, and local governments use to address water resource issues. Coordination is necessary as well to help ensure that state, tribal, and local decentralized wastewater programs are managed on a watershed basis to achieve protection consistent with applicable state and tribal water quality standards, including pathogen and nutrient

criteria. EPA believes that these goals are best achieved where performance-based management of onsite and clustered systems has been implemented to protect the quality of the receiving watershed and/or aquifer.

Flexibility Needed for Implementation

The legal authority for regulating onsite and clustered systems generally rests with state, tribal, and local governments. EPA recognizes that these units of



government need a flexible framework and guidance to best tailor their management programs to the specific needs of the community and the needs of the watershed. Although each management

model stands alone, the models are intended only to be guides in developing an appropriate management program. Activities shown in program elements from one management model may be incorporated into another model to enhance the effectiveness of local programs in achieving the desired objectives under the prevailing circumstances. However, substituting activities from higher levels into lower-level management programs should be carefully considered because of the interdependence of many activities on overall program capabilities. It is also possible to implement more than one management model, as appropriate, within a jurisdiction for the circumstances encountered (housing density, site and soil characteristics, and treatment technology complexity). Further, it is important to note that these management

EPA recognizes that these units of government need a flexible framework and guidance to best tailor their management programs to the specific needs of the community and the needs of the watershed.

models are not intended to supersede existing federal, state, tribal, and local laws and regulations, but rather to complement their role in protecting public health and water quality.

Roles and Responsibilities

Governmental roles and authority in implementation of management programs based on the Management Guidelines will vary from jurisdiction to jurisdiction. Application of the NPDES program under the CWA is required if there is a discharge of pollutants from a point source to a water of the United States. Similarly, application of the UIC program under the SDWA is



required if a large-capacity system is subject to UIC controls. The provisions of the program elements in each model may inform the state,

tribe, or EPA in establishing NPDES permit requirements if the NPDES program is applicable. In many cases states will establish the authority for creation of management entities, provide funding, and provide technical assistance and training to local governments. The local governments would then have primary responsibility for implementation of the management program. If a decentralized system is required to have an NPDES permit and an authorized state or tribe is administering a decentralized management program under this strategy, the requirements of the program should be incorporated into the applicable NPDES permit, which is the primary regulatory instrument. If a state or tribe administering the program is not an authorized NPDES authority, the requirements of the program should be submitted to the NPDES permit issuing authority as a Section 401 certification requirement. If the program is being administered by a local authority or by a tribe without

401 certification ability, the requirements of the program should be recommended to the NPDES permit issuing authority for inclusion in the facilities permit. There are some cases, however, where the states themselves have the primary role and authority to implement the regulatory program at the local level.

Costs

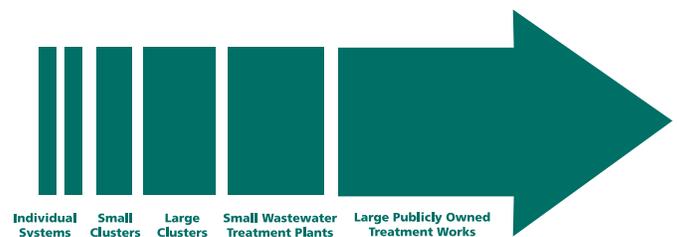
State, tribal, and local governments must recognize that it is likely that both the regulatory authority and the property owner will face increased costs in improving management practices and programs. The cost impacts may increase as the level of management increases;



however, trade-offs exist. Costs incurred by the regulatory authority and/or management entity may be offset by increased permit fees and more efficient data management

tools, while the costs to the property owner may be offset by reduced repair and replacement costs, avoidance of environmental restoration costs, and increased property values and quality of life.

The Wastewater Management Continuum



Model 1 - The Homeowner Awareness Model

As a minimum level of management, EPA recommends **Model 1 - The Homeowner Awareness Model**. This program specifies appropriate management practices where treatment systems are owned and operated by individual property owners in areas of low environmental sensitivity, i.e., no restricting site or soil conditions such as shallow water tables or drinking water wells within locally determined horizontal setback distances. This model is applicable where treatment technologies are limited to conventional systems, which are passive and robust treatment systems that can provide acceptable treatment under suitable site conditions despite a lack of attention by the owner. Failures that might occur and continue undetected will pose a relatively low level of risk to public health and water resources. The objectives of this management model are to ensure that all systems are sited, designed, and constructed in compliance with sound, prevailing rules; all systems are documented and inventoried by the regulatory authority; and system owners are informed of the maintenance needs of their systems through timely reminders. The model is intended to provide an accurate record of the types and location of installed systems, to raise homeowners' awareness of basic system maintenance requirements, and to better ensure that the homeowners attend to those deficiencies that overtly threaten public health. This model, like all management programs described in this guidance, suggests the use of only trained and licensed/certified service providers. This model is a starting point for enhancing management programs because it provides communities with a good database of systems and their application for determining whether increased management practices are necessary.

Model 2 - The Maintenance Contract Model

EPA recommends **Model 2 - The Maintenance Contract Model** where more complex system designs are employed to enhance the capacity of conventional systems to accept and treat wastewater or where small clusters are used. For example, pretreating wastewater to remove nonbiodegradable materials and particulate matter that typically pass through a septic tank may enhance subsurface infiltration system performance on marginally suitable sites (sites with limited area, slowly permeable soils, or shallow water tables). However, such pretreatment units can have mechanical components and sensitive treatment processes, which require routine observation and maintenance if they are to perform satisfactorily. Maintenance of these more complex systems is critical to sustaining acceptable protection in these areas of greater environmental sensitivity. Therefore, these systems should be allowed only where trained operators are under contract to perform timely operation and maintenance. The objectives of this model build on the Homeowner Awareness Model by ensuring that property owners maintain maintenance contracts with trained operators.

Model 3 - The Operating Permit Model

EPA recommends **Model 3 - The Operating Permit Model** where sustained performance of onsite wastewater treatment systems is critical to protect public health and water quality. Examples of locations where this program might be appropriate include areas adjacent to estuaries or lakes where excessive nutrient concentrations may be a concern or situations where a source water assessment has identified onsite systems as potential threats to drinking water supplies. EPA strongly recommends that this be the minimum model used where large-capacity systems or systems treating high-strength wastewaters are present. EPA has determined not to regulate large-capacity onsite systems under the Underground Injection Control program at this time based on the belief that implementation of these Management Guidelines can ensure adequate protection of public health and the environment.⁽¹⁰⁾ A principal objective of this management program is to ensure that the onsite wastewater treatment systems continuously meet their performance criteria. Limited-term operating permits are issued to the property owner and are renewable for another term if the owner demonstrates that the

system is in compliance with the terms and conditions of the permit. In subareas where it is appropriate to use conventional onsite system designs, the operating permit may contain only a requirement that routine maintenance be performed in a timely manner and the condition of the system be inspected periodically. With complex systems, the treatment process will require more frequent inspections and adjustments, so process monitoring may be required. An advantage to implementing the program elements and activities of this management program is that the design of treatment systems is based on performance criteria that are less dependent on site characteristics and conditions. Therefore, systems can be used safely in more sensitive environments if their performance meets those requirements reliably and consistently. The operating permit provides a mechanism for continuous oversight of system performance and negotiating timely corrective actions or levying penalties if compliance with the permit is not maintained. To comply with these performance standards, the property owner should be encouraged to hire a licensed maintenance provider or operator.

Model 4 - The Responsible Management Entity (RME) Operation and Maintenance Model

EPA recommends **Model 4 - The Responsible Management Entity (RME) Operation and Maintenance Model** where large numbers of onsite and clustered systems must meet specific water quality requirements because the sensitivity of the environment is high, e.g., wellhead protection areas or shellfish waters. Frequent and highly reliable operation and maintenance is required to ensure water resource protection. Issuing the operating permit to an RME instead of the property owner provides greater assurance of control over performance compliance. This allows the use of performance-based systems in more sensitive environments than the Operating Permit Model. For a service fee, an RME takes responsibility for the operation and maintenance. This approach can reduce the number of permits and the administration functions performed by the regulatory authority. System failures are also reduced as a result of routine and preventive maintenance. The operating permit system is identical to that of the Operating Permit Model except that the permittee is a public or private RME. States may need to establish (and some already have) a regulatory structure to oversee the rate structures that RMEs establish and any other measures that a public services commission would normally undertake to manage private entities in noncompetitive situations.

Model 5 - The Responsible Management Entity (RME) Ownership Model

Model 5 - The Responsible Management Entity (RME) Ownership Model is a variation of the RME operation and maintenance concept in the RME Operation and Maintenance Model, with the exception that ownership of the system is no longer with the property owner. The designated management entity owns, operates, and manages the decentralized wastewater treatment systems in a manner analogous to central sewerage. Under this approach, the RME maintains control of planning and management, as well as operation and maintenance. This management model is appropriate for environmental or public health conditions similar to those for the RME Operation and Maintenance Model, but Model 5 provides a higher level of control of system performance. It also reduces the likelihood of disputes that can occur between the RME and the property owner in the RME Operation and Maintenance Model when the property owner fails to fully cooperate with the RME. The RME can also more readily replace existing systems with higher-performance units or clustered systems when necessary. EPA recommends implementation of the management practices detailed in the RME Ownership Model in cases such as where new, high-density development is proposed in the vicinity of sensitive receiving waters. States might need to establish a regulatory structure to oversee the rate structures that RMEs establish and any other measures that a public services commission would normally undertake to manage entities in noncompetitive situations.

HOW TO APPLY THE MANAGEMENT MODELS

Tables 1 through 5 in Appendix A provide brief descriptions of specific activities to be undertaken for the various program elements of a management model. The party that has primary responsibility for the activities is also identified. The program elements and activities listed for each management model are



considered to be the minimum elements and activities necessary to achieve the stated management

objectives for each model. A detailed discussion of the program elements and activities is provided in the draft Management Handbook. The handbook complements the Management Guidelines and helps states, tribes, and local communities that wish to evaluate and upgrade their existing programs to develop and implement improved management programs. The draft Management Handbook includes case studies and examples of materials used by communities that have adequately implemented management programs.

How Do the Models Apply to Local Conditions?

As previously indicated, the management model a particular community or service area selects should be based on environmental sensitivity, public health risks, the complexities of the wastewater treatment technologies that might or should be implemented, and the size or density of development. The management model is selected after the decision to use decentralized wastewater treatment is made. The tables in Appendix A generally describe

recommended activities for each of the management elements associated with the management models. How each of these elements and activities will be implemented will depend on decisions by the local community and

The general framework for a local management program should be derived from the tables, but it must be tailored to suit local circumstances and preferences.

regulatory authority, based on generally accepted onsite wastewater science and practice, locally appropriate statutes, ordinances, institutional structures, technical capabilities, public preferences, and other factors. Thus, the

general framework for a local management program should be derived from the tables, but it must be tailored to suit local circumstances and preferences.

EPA recognizes the varied nature of management needed across the country and within states and localities, the need for flexibility in adopting the recommendations of the Management Guidelines, and the lack of resources for implementation. Although states, tribes, and local communities are encouraged to implement management models, an individual program

may properly include elements of several management models. These hybrid or combination programs may be appropriate where site conditions vary within the community or institutional capacity is not uniform within the jurisdiction. It is also recommended that appropriate levels of management for decentralized systems be

established in jurisdictions that have both centralized and decentralized wastewater treatment. In some cases,

Selection of the management model is made after the decision to use decentralized wastewater treatment is made.

it might be feasible for the entity that manages the centralized wastewater treatment facility to manage the decentralized systems as well.

How Can a Community Phase In a Management Model?

Targeting of specific types of systems for improved management may also be appropriate when resources are limited and a phased approach that focuses on priority systems is preferred. When there are limited resources for monitoring efforts, a widely used approach has been to initially target higher-density or environmentally sensitive areas. Examples of environmentally sensitive areas include areas used for drinking water sources, areas adjacent to heavily used lakes and beaches, and areas that affect coral reefs or shellfish beds. Any approach taken should include input from all the stakeholders in a local jurisdiction or watershed.

The implementation of higher levels of management will often occur in progressive stages, as more performance data and experience with systems develop, public awareness and support increase, and the



capability of state, tribal, and local institutions to deal with management challenges builds over time. Implementation of the elements and

activities recommended by the Homeowner Awareness Model as the threshold level of management will not only raise the quality of management practices for most existing programs but also initiate activities (such as an inventory of systems) that allow the community to identify and address circumstances that might require upgrading to higher levels of management.

Although the Homeowner Awareness Model might adequately address conventional systems within low-risk

segments of a service area, there might be other areas of higher risk that require higher levels of management. For those areas, a higher-level management model, more appropriate for areas with higher sensitivities, may be incorporated into the overall management program to customize system management to the needs of the community or service area. It is important that the management program be structured to adequately manage an appropriate set of onsite and clustered

Targeting of specific types of systems for improved management may also be appropriate when resources are limited.

systems for the full range of environmental conditions. For example, the Operating Permit Model might be selected for the more sensitive areas such as those along lakefronts or estuaries shown to

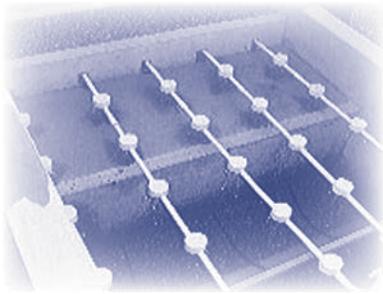
have poor water quality, while a lower-level management model might still be appropriate where the receiving environment is not as sensitive and conventional systems are acceptable.

What Should Be Considered When Selecting a Management Model?

- **Environmental sensitivity and public health risk.** The locally developed management program should be based on the potential risk of onsite wastewater treatment system discharges adversely affecting the public health or the quality of local water resources. The level of oversight incorporated into the management program should increase as the potential for negative impacts on public health or for environmental degradation increases. Examples of parameters to consider in assessing public health and environmental sensitivity include soil permeability, depth to a restrictive horizon and ground water, aquifer type, receiving water use, proximity to surface waters, topography, geology, location of critical habitat under the Endangered Species Act, and density of development. Another useful parameter to consider

is the “susceptibility determinations” that states and tribes will make as part of their source water assessments. These assessments determine which potential sources of pollution, including decentralized wastewater systems, pose the greatest threats to drinking water.

Other issues to consider that might have a direct impact on public health include the need to protect shellfish harvesting and direct contact recreational waters. An area with moderately permeable soils and a ground water table that is sufficiently isolated from



the effects of onsite discharges may be designated as an area of low public health risk and environmental sensitivity, whereas an area with excessively

permeable soils with a shallow water table used for a drinking water source would be designated as an area of high concern. For those watersheds where a determination has been made that the onsite wastewater treatment system is contributing to a violation of water quality standards, the elements and activities of the Operating Permit Model, the RME Operation and Maintenance Model, or the RME Ownership Model should be selected to address restoration of the watershed. More detailed information on these factors is provided in the draft Management Handbook.

- **Complexity of treatment system.** The complexity of the treatment system also influences the management program selected. As the complexity of a treatment system increases to meet management objectives or system performance standards, the need for a higher level of operation and maintenance and monitoring increases to ensure that the system does not malfunction to create an unacceptable risk to public health or water resources. A less complex treatment system, such as a conventional onsite septic

system, depends upon passive, natural processes for the movement, treatment, and dispersal of wastewater. The prescriptive elements of the Homeowner Awareness Model, where properly applied, might be sufficient for conventional onsite technologies to consistently function as effective wastewater treatment systems. A more complex treatment system, such as a surface discharging aerobic treatment system with filtration and disinfection, will require routine monitoring and attention from a professional technician to maintain performance and therefore

EPA’s updated Onsite Wastewater Treatment Systems Manual, provides guidance on performance and management requirements for a broad range of onsite treatment and dispersal technologies.

requires a higher level of oversight. EPA’s updated *Onsite Wastewater Treatment Systems Manual*⁽¹¹⁾ provides guidance on performance and management requirements for a broad range of onsite treatment and dispersal technologies. System size also

influences the management model selected. Large-capacity and clustered systems require a higher degree of management than individual onsite systems.

Communities that have made the decision to use onsite and clustered systems should use these Management Guidelines as a tool for identifying approaches for proper management of the systems. Implementation of the management practices defined in the Management Guidelines will help communities meet water quality and public health goals, provide a greater range of options for cost-effectively meeting wastewater needs, and protect consumers’ investment in home and business ownership. Tables 1 through 5 in Appendix A provide a useful summary of the program elements for each management model and the associated responsible party and activity. The draft Management Handbook provides further detail on how to implement the management programs and is

designed to assist state, tribal, and local officials; service providers; and other interested parties with improving system operation, maintenance, and performance.

Where Can Further Information Be Obtained?

Visit EPA's Web site on decentralized wastewater treatment at www.epa.gov/owm/onsite. The site includes a copy of the draft Management Handbook, fact sheets on technologies, useful links to other sites, a calendar of events, frequently asked questions, sources of funding information on demonstration projects, and numerous reference documents such as EPA's new *Onsite Wastewater Treatment Systems Manual*.

Additional copies of this document, (EPA 832-B-03-001), can be obtained from:

U.S. EPA Publications Clearinghouse
P.O. Box 42419
Cincinnati, OH 45242
Telephone: 800-490-9198
Fax: 513-489-8695

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GLOSSARY

Aerobic Treatment Unit (ATU): A mechanical wastewater treatment unit that provides secondary wastewater treatment for a single home, a cluster of homes, or a commercial establishment by mixing air (oxygen) and aerobic and facultative microbes with the wastewater. ATUs typically use a suspended growth process (such as activated sludge-extended aeration and batch reactors), a fixed-film process (similar to a trickling filter), or a combination of the two treatment processes.

Alternative Onsite Treatment System: A wastewater treatment system that includes components different from those typically used in a conventional septic tank and subsurface wastewater infiltration system (SWIS). An alternative system is used to achieve acceptable treatment and dispersal of wastewater where conventional systems either might not be capable of protecting public health and water quality or are inappropriate for properties with shallow soils over ground water or bedrock or soils with low permeability. Examples of components that can be used in alternative systems are sand filters, aerobic treatment units, disinfection devices, and alternative subsurface infiltration designs such as mounds, gravelless trenches, and pressure and drip distribution.

Centralized Wastewater System: A managed system consisting of collection sewers and a single treatment plant used to collect and treat wastewater from an entire service area. Traditionally, such a system has been called a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

Cesspool: A drywell that receives untreated sanitary waste containing human excreta, which sometimes has an open bottom and/or perforated sides (40 CFR 144.3).

Cesspools with the capacity to serve 20 or more persons per day were banned in federal regulations promulgated on December 7, 1999. The construction of new cesspools was immediately banned, and existing large-capacity cesspools must be replaced with sewer connections or onsite wastewater treatment systems by 2005.

Clustered System: A wastewater collection and treatment system under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on a suitable site near the dwellings or buildings.

Construction Permit: A permit issued by the designated local regulatory authority that allows the installation of a wastewater treatment system in accordance with approved plans and applicable codes.

Conventional Onsite Treatment System: A wastewater treatment system consisting of a septic tank and a typical trench or bed subsurface wastewater infiltration system.

Decentralized System: An onsite or clustered system used to collect, treat, and disperse or reclaim wastewater from a small community or service area.

Dispersal System: A system that receives pretreated wastewater and releases it into the air, into surface or ground water, or onto or under the land surface. A subsurface wastewater infiltration system is an example of a dispersal system.

Engineered Design: An onsite or clustered wastewater system that is designed and certified by a licensed/certified designer to meet specific performance criteria for a particular wastewater on a particular site.

Environmental Sensitivity: The relative susceptibility to adverse impacts of a water resource or other receiving environment from dispersal of wastewater or its constituents. The impacts may be low, acute (immediate and significantly disruptive), or chronic (long-term, with gradual but serious disruptions).

Large-Capacity Septic System: An onsite method of partially treating and disposing of sanitary wastewater having the capacity to serve 20 or more persons per day subject to EPA's Underground Injection Control regulations.

Management Model: A 13-element program designed to protect and sustain public health and water quality through the use of appropriate policies and administrative procedures that define and integrate the roles and responsibilities of the regulatory authority, system owner, service providers, and management entity, when present, to ensure that onsite and clustered wastewater treatment systems are appropriately managed throughout their life cycle. The program elements include public education and participation; planning; performance; training and certification/licensing; site evaluation; design; construction; operation and maintenance; residuals management; compliance inspections/monitoring; corrective actions; recordkeeping, inventory, and reporting; and financial assistance and funding. Management services should be provided by properly trained and certified personnel and tracked through a comprehensive management information system.

National Pollutant Discharge Elimination System (NPDES): A national program under Section 402 of the Clean Water Act for regulation of discharges of pollutants from point sources to waters of the United States. Discharges are illegal unless authorized by an NPDES permit.

Onsite Service Provider: A person who provides onsite system services. Providers include (but are not limited to) designers, engineers, soil scientists, site evaluators, installers, contractors, operators, managers, maintenance-service providers, pumpers, and others who provide services to system owners or other service providers.

Onsite Wastewater Treatment System (OWTS): A system relying on natural processes and/or mechanical components to collect, treat, and disperse or reclaim wastewater from a single dwelling or building.

Operating Permit: A renewable and revocable permit to operate and maintain an onsite or clustered treatment system in compliance with specific operational or performance criteria stipulated by the regulatory authority.

Performance-Based Management Program: A program designed to preserve and protect public health and water quality by seeking to ensure sustained achievement of specific, measurable performance criteria based on site and risk assessments.

Performance Criteria: Any criteria established by the regulatory authority to ensure future compliance with the public health and water quality goals of the community, the state or tribe, and the federal government. Performance criteria can be expressed as numeric limits (e.g., pollutant concentrations, mass loads, wet weather flow, structural strength) or narrative descriptions of desired conditions or requirements (e.g., no visible scum, sludge, sheen, odors, cracks, or leaks).

Permitting Authority: The state, tribal, or local unit of government with the statutory or delegated authority to issue permits to build and operate onsite wastewater systems.

Prescription-Based Management Program: A program designed to preserve and protect public health and water quality by specifying preengineered system designs for specific sets of site conditions such that systems that are sited, designed, and constructed properly are deemed to meet public health and water quality standards.

Prescriptive Requirements: Specifications for design, installation, and other procedures and practices for onsite or clustered wastewater systems on sites that meet stipulated criteria. Proposed deviations from the stipulated criteria, specifications, procedures, or practices require formal approval from the regulatory authority.

Regulatory Authority (RA): The unit of government that establishes and enforces codes related to the permitting, design, placement, installation, operation, maintenance, monitoring, and performance of onsite and clustered wastewater systems.

Residuals: The solids generated or retained during the treatment of wastewater. They include trash, rags, grit, sediment, sludge, biosolids, septage, scum, and grease, as well as those portions of treatment systems that have served their useful life and require disposal, such as the sand or peat from a filter. Because of the different characteristics of residuals, management requirements can differ as stipulated by the appropriate federal regulations.

Responsible Management Entity (RME): A legal entity responsible for providing various management services with the requisite managerial, financial, and technical capacity to ensure the long-term, cost-effective management of decentralized onsite or clustered wastewater treatment facilities in accordance with applicable regulations and performance criteria.

Septage: The liquid and solid materials pumped from a septic tank during cleaning operations.

Septic Tank: A buried, watertight tank designed and constructed to receive and partially treat raw wastewater. The tank separates and retains settleable and floatable solids suspended in the wastewater and discharges the settled wastewater for further treatment and dispersal to the environment.

Source Water Assessment: A study and report required by the Source Water Assessment Program (SWAP) of the Safe Drinking Water Act addressing the capability of a given public water system to protect water quality. The assessment includes delineation of the source water area, identification of potential sources of contamination in the delineated area, determination of susceptibility to those sources, and public notice of the completed assessment.

Underground Injection Well: A constructed system designed to place waste fluids above, into, or below aquifers classified as underground sources of drinking water. As regulated under the Underground Injection Control (UIC) Program of the Safe Drinking Water Act (40 CFR Parts 144 and 146), injection wells are grouped into five classes. Class V includes shallow systems such as cesspools and subsurface wastewater infiltration systems. Subsurface wastewater infiltration systems with the capacity to serve 20 or more people per day, or similar systems receiving nonsanitary wastes, are subject to federal regulation. Class V motor vehicle waste injection wells and large-capacity cesspools are specifically prohibited under the UIC regulations.

APPENDIX A: MANAGEMENT MODELS

This appendix presents a description of activities associated with each program element and identifies the party responsible for each activity. A detailed discussion is presented in the Management Handbook. Activities in bold are activities added to program elements from the preceding Management Model.

Note: If applicable, National Pollutant Discharge Elimination System (NPDES) requirements under the Clean Water Act (CWA) or Underground Injection Control (UIC) requirements under the Safe Drinking Water Act (SDWA) supercede any less stringent or inconsistent provisions. Program elements in each model help inform the state, tribe, or EPA in establishing NPDES permit requirements.

MANAGEMENT MODEL 1: HOMEOWNER AWARENESS

Objective: To ensure that conventional onsite systems are sited and constructed properly in accordance with appropriate state, tribal, and local regulations and codes; that they are periodically inspected; and, if necessary, that they are repaired by the Owner. The Regulatory Authority maintains a record of the location of all systems and periodically provides the Owner/User with notices regarding operation and preventive maintenance recommendations.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY
 PUBLIC EDUCATION AND PARTICIPATION	Regulatory Authority	<ul style="list-style-type: none"> Educate Owner/User on purpose, use, and care of treatment system. Provide public review and comment periods of any proposed program or rule changes.
	Service Provider	<ul style="list-style-type: none"> Be informed of existing rules and review and comment on any proposed program and/or rule changes. Participate in advisory committees established by the Regulatory Authority.
	Owner/User	<ul style="list-style-type: none"> Be informed of purpose, use, and care of treatment system. Be informed of existing rules and review and comment on any proposed program and/or rule changes. Participate in advisory committees established by the Regulatory Authority.
 PLANNING	Regulatory Authority	<ul style="list-style-type: none"> Coordinate program rules and regulations with state, tribal, and local planning and zoning and other water-related programs. Evaluate potential risks of wastewater discharges to limit environmental impacts on receiving environments during the rule making process. Limit potential risks of environmental impacts from residuals management program and evaluate available handling/treatment capacities. Inform local planning authority of rule changes and recommend its evaluation of potential impacts on land use.
	Developer	<ul style="list-style-type: none"> Hire planners, certified site evaluators, and designers to ensure that all lots of proposed subdivision plats meet requirements for onsite treatment prior to final plat.
 PERFORMANCE	Regulatory Authority	<ul style="list-style-type: none"> Establish system failure criteria to protect public health, e.g., wastewater backups in building, wastewater ponding on ground surface, insufficient separation from ground water or wells.
	Owner/User	<ul style="list-style-type: none"> Regularly maintain system in proper working order.
 TRAINING AND CERTIFICATION/LICENSING	Licensing Board/Regulatory Authority	<ul style="list-style-type: none"> Develop and administer training, testing, and certification/licensing program for site evaluators, designers, contractors, and pumpers/haulers. Maintain a current certified/licensed Service Provider listing.
	Service Provider	<ul style="list-style-type: none"> Obtain appropriate certification(s)/license(s) and continuing education as required. Obtain training from the manufacturer or vendor regarding appropriate use, installation requirements, and O&M procedures of any proprietary equipment to be installed. Comply with applicable federal, state, tribal, and local requirements.
	Owner/User	<ul style="list-style-type: none"> When using third-party services, contract with only the appropriate certified/licensed Service Providers.
 SITE EVALUATION	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive requirements for site evaluation procedures. Codify criteria for treatment site characteristics suitable for permitted designs that will prevent unacceptable impacts on ground and surface water resources.
	Site Evaluator	<ul style="list-style-type: none"> Obtain certification/license to practice. Describe site and soil characteristics, determine suitability of site with respect to code requirements, and estimate site's hydraulic and treatment capacity. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed site evaluator to perform site evaluation.

MANAGEMENT MODEL 1: HOMEOWNER AWARENESS

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY
 DESIGN	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive, preengineered designs that are suitable for treatment sites that meet the appropriate prescriptive site criteria.
	Designer	<ul style="list-style-type: none"> Obtain a certification/license to practice. Design a treatment system that is compatible with the site and soil characteristics described by the site evaluator. Comply with applicable federal, state, tribal, and local requirements in the design of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed designer to prepare system design.
 CONSTRUCTION	Regulatory Authority	<ul style="list-style-type: none"> Administer a permitting program for system construction, including Regulatory Authority review of proposed system siting and design plans. Perform final construction inspection for compliance assurance and inventory data collection. Require that record drawings of constructed system be submitted to the Regulatory Authority by Owner.
	Contractor/ Installer	<ul style="list-style-type: none"> Obtain certification/license to practice. Construct the system in accordance with the approved plans and specifications. Prepare record drawings of completed system and submit to Owner. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Designer of Record	<ul style="list-style-type: none"> Approve proposed field changes and submit to Owner. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed contractor/installer to construct system. Submit final record drawings of constructed system to Regulatory Authority.
 OPERATION & MAINTENANCE	Regulatory Authority	<ul style="list-style-type: none"> Provide Owner/User with educational materials regarding system use and care. Send timely reminder to Owner of when scheduled preventive maintenance is due.
	Pumper/Hauler	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect and service system as necessary. Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Owner	<ul style="list-style-type: none"> Perform recommended routine maintenance or hire a certified/licensed pumper/hauler to perform maintenance. Hire a certified/licensed pumper/hauler to periodically inspect, service, and remove septage for proper treatment and disposal.
	User	<ul style="list-style-type: none"> Follow recommendations provided by Regulatory Authority, Service Providers, and/or Owner to ensure that undesirable or prohibited materials are not discharged to system.
 RESIDUALS MANAGEMENT	Regulatory Authority	<ul style="list-style-type: none"> Administer a tracking system for residuals hauling, treatment, and disposal and review to evaluate compliance with 40 CFR Part 503 (Use and Disposal of Sewage Sludge), 40 CFR Part 257, and applicable state, tribal, and local requirements. Inventory available residuals handling/treatment capacities and develop contingency plans to ensure that sufficient capacities are always available.
	Pumper/Hauler	<ul style="list-style-type: none"> Obtain certification/license to practice. Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of treatment system residuals.
 COMPLIANCE INSPECTIONS/ MONITORING	Regulatory Authority	<ul style="list-style-type: none"> Conduct final construction inspections to ensure compliance with approved plans and permit requirements. Perform compliance inspections at point-of-sale, change-in-use of properties, "targeted areas," and systems reported to be in violation. Conduct compliance inspections of residuals hauling, treatment, and disposal.
	Pumper/Hauler	<ul style="list-style-type: none"> Inform Owner of any noncompliant items observed during routine servicing of system.
	Owner	<ul style="list-style-type: none"> Periodically perform a "walk-over" inspection of the system and correct any deficiencies.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY
 <p>CORRECTIVE ACTIONS</p>	Regulatory Authority	<ul style="list-style-type: none"> • Negotiate compliance schedule with Owner for correcting documented noncompliance items. • Administer enforcement program, including fines and/or penalties for failure to comply with compliance requirements. • Obtain necessary authority to enter property to correct imminent threats to public health if the Owner/User fails to comply.
	Designer	<ul style="list-style-type: none"> • Provide Owner with documents (drawings, specifications, modifications, etc.) that may be required by Regulatory Authority prior to corrective action.
	Contractor/ Installer	<ul style="list-style-type: none"> • Perform required repairs, modifications, and upgrades as necessary.
	Owner	<ul style="list-style-type: none"> • Comply with terms and conditions of the negotiated compliance schedule. • Submit required documents for corrective actions to Regulatory Authority. • Hire appropriate certified/licensed Service Providers to perform required corrective actions.
 <p>RECORD KEEPING, INVENTORY, & REPORTING</p>	Regulatory Authority	<ul style="list-style-type: none"> • Administer a database inventory (locations, site evaluations, record drawings, permits, performed maintenance, inspection reports) of all systems. • Maintain a residuals treatment and disposal tracking system. • Maintain a current certified/licensed Service Provider listing that is available to the public.
	Pumper/Hauler	<ul style="list-style-type: none"> • Prepare and submit records of residuals handling as required.
	Owner	<ul style="list-style-type: none"> • Maintain approved record drawings of system. • Maintain maintenance records of system. • Provide drawings, specifications, and maintenance records to new property owner at time of property transfer.
 <p>FINANCIAL ASSISTANCE & FUNDING</p>	Regulatory Authority	<ul style="list-style-type: none"> • Provide the legal and financial support to sustain the management program. • Provide a listing of financial assistance programs available to Owner and the qualifying criteria for each program. • Consider implementing a state or local financing program to assist Owners in upgrading their systems.

MANAGEMENT MODEL 2: MAINTENANCE CONTRACTS

Objective: To allow use of more complex mechanical treatment options or small clusters through the requirement that maintenance contracts be maintained between the Owner and maintenance provider to ensure appropriate and timely system component maintenance by qualified technicians over the service life of the system.

MANAGEMENT MODEL 2: MAINTENANCE CONTRACTS	PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
	 PUBLIC EDUCATION AND PARTICIPATION	Regulatory Authority	<ul style="list-style-type: none"> Educate Owner/User on purpose, use, and care of treatment system. Provide public review and comment periods of any proposed program and/or rule changes.
		Service Provider	<ul style="list-style-type: none"> Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
		Owner/User	<ul style="list-style-type: none"> Be informed of purpose, use, and care of treatment system. Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
	 PLANNING	Regulatory Authority	<ul style="list-style-type: none"> Coordinate program rules and regulations with state, tribal, local planning and zoning and other water-related programs. Evaluate potential risks of wastewater discharges to limit environmental impacts on receiving environments during the rule making process. Limit potential risks of environmental impacts from residuals management program and evaluate available handling/treatment capacities. Inform local planning authority of rule changes and recommend its evaluation of potential impacts on land use.
		Developer	<ul style="list-style-type: none"> Hire planners, certified site evaluators, and designers to ensure that all lots of proposed subdivision plats meet requirements for onsite treatment prior to final plat.
	 PERFORMANCE	Regulatory Authority	<ul style="list-style-type: none"> Establish system failure criteria to protect public health, e.g., wastewater backups in building, wastewater ponding on ground surface, insufficient separation from ground water or wells. Establish minimum performance criteria for manufactured component approvals. Establish minimum maintenance requirements for approved systems.
		Owner/User	<ul style="list-style-type: none"> Regularly maintain system in proper working order.
	 TRAINING AND CERTIFICATION/LICENSING	Licensing Board/Regulatory Authority	<ul style="list-style-type: none"> Develop and administer training, testing, and certification/licensing program for site evaluators, designers, contractors, operators, and pumpers/haulers. Maintain a current certified/licensed Service Provider listing.
		Service Provider	<ul style="list-style-type: none"> Obtain appropriate certification(s)/license(s) and continuing education as required. Obtain training from the manufacturer or vendor regarding appropriate use, installation requirements, and O&M procedures of any proprietary equipment to be installed. Comply with applicable federal, state, tribal, and local requirements.
Owner/User		<ul style="list-style-type: none"> When using third-party services, contract only with the appropriate certified/licensed Service Providers. 	
 SITE EVALUATION	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive requirements for site evaluation procedures. Codify criteria for treatment site characteristics suitable for permitted designs that will prevent unacceptable impacts on ground and surface water resources. Establish alternative site acceptance criteria for approved systems providing enhanced pretreatment. 	
	Site Evaluator	<ul style="list-style-type: none"> Obtain certification/license to practice. Describe site and soil characteristics, determine suitability of site with respect to code requirements, and estimate site's hydraulic and treatment capacity. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal. 	
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed site evaluator to perform site evaluation. 	

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 DESIGN	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive, preengineered designs that are suitable for treatment sites that meet the appropriate prescriptive site criteria. Administer an evaluation program for approving manufactured components for use with pre-engineered designs.
	Designer	<ul style="list-style-type: none"> Obtain certification/license to practice. Design a treatment system that is compatible with the site and soil characteristics described by the site evaluator. Comply with applicable federal, state, tribal, and local requirements in the design of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed designer to prepare system design.
 CONSTRUCTION	Regulatory Authority	<ul style="list-style-type: none"> Administer a permitting program for system construction, including Regulatory Authority review of proposed system siting and design plans. Perform final construction inspection for compliance assurance and inventory data collection. Require that record drawings of constructed system be submitted to the Regulatory Authority by Owner. Require Owner to submit a copy of system O&M manual to the Regulatory Authority.
	Contractor/ Installer	<ul style="list-style-type: none"> Obtain certification/license to practice. Construct the system in accordance with the approved plans and specifications. Prepare record drawings of completed system and submit to Owner. Provide Owner with an O&M manual describing component manufacturer's maintenance and troubleshooting requirements/recommendations. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Designer of Record	<ul style="list-style-type: none"> Approve proposed field changes and submit to Owner. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed contractor/installer to construct system. Submit final record drawings of constructed system to Regulatory Authority. Submit a copy of system O&M manual to Regulatory Authority to record required maintenance.
 OPERATION & MAINTENANCE	Regulatory Authority	<ul style="list-style-type: none"> Provide Owner/User with educational materials regarding system use and care. Send timely reminder to Owner when scheduled preventive maintenance is due. Administer a program that requires the Owner to attest periodically that he or she holds a valid contract with a certified/licensed operator to perform scheduled and any necessary maintenance according to the maintenance requirements described in submitted O&M manual. Require Owner to submit a maintenance report signed/sealed by certified/licensed operator immediately following scheduled maintenance.
	Operator	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect and service system as necessary in accordance with the submitted O&M manual. Certify to Owner that the required maintenance was performed in a timely manner, describing any system deficiencies observed. Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Pumper/Hauler	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect and service system as necessary. Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of treatment and dispersal system.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed pumper/hauler to periodically inspect, service, and remove septage or other residuals for proper treatment and disposal. Maintain contractual agreement with a certified/licensed operator to perform scheduled maintenance as required. Inform Regulatory Authority of any change in maintenance contract status.
	User	<ul style="list-style-type: none"> Follow recommendations provided by Regulatory Authority, Service Providers, and/or Owner to ensure that undesirable or prohibited materials are not discharged to system.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

MANAGEMENT MODEL 2: MAINTENANCE CONTRACTS

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 RESIDUALS MANAGEMENT	Regulatory Authority	<ul style="list-style-type: none"> Administer a tracking system for residuals hauling, treatment, and disposal and review to evaluate compliance with 40 CFR Part 503 (Use and Disposal of Sewage Sludge), 40 CFR Part 257, and applicable state, tribal, and local requirements. Inventory available residuals handling/treatment capacities and develop contingency plans to ensure that sufficient capacities are always available.
	Pumper/Hauler	<ul style="list-style-type: none"> Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of treatment system residuals.
 COMPLIANCE INSPECTIONS/ MONITORING	Regulatory Authority	<ul style="list-style-type: none"> Conduct final construction inspections to ensure compliance with approved plans and permit requirements. Perform compliance inspections at point-of-sale, change-in-use of properties, "targeted areas," and/or systems reported to be in violation. Conduct compliance inspections of residuals hauling, treatment, and disposal. Administer program for confirming that Owners hold valid maintenance contracts with certified/licensed operators and for monitoring timely submittals of certified maintenance reports.
	Operator or Pumper/Hauler	<ul style="list-style-type: none"> Inform Owner of any noncompliant items observed during routine servicing of system.
	Owner	<ul style="list-style-type: none"> Periodically perform a "walk-over" inspection of the system and correct any deficiencies. Attest to the Regulatory Authority that a valid contract exists with a certified/licensed operator to perform necessary system maintenance. Submit a maintenance report signed/sealed by a certified/licensed Service Provider immediately following scheduled maintenance.
 CORRECTIVE ACTIONS	Regulatory Authority	<ul style="list-style-type: none"> Negotiate compliance schedule with Owner for correcting documented noncompliant items. Administer enforcement program, including fines and/or penalties for failure to comply with compliance requirements. Obtain necessary authority to enter property to correct imminent threats to public health if the Owner/User fails to comply.
	Designer	<ul style="list-style-type: none"> Provide Owner with documents (drawings, specifications, modifications, etc.) that may be required by Regulatory Authority prior to corrective action.
	Contractor/ Installer	<ul style="list-style-type: none"> Perform required repairs, modifications, and upgrades as necessary.
	Owner	<ul style="list-style-type: none"> Comply with terms and conditions of the negotiated compliance schedule. Submit required documents for corrective actions to Regulatory Authority. Hire appropriate certified/licensed Service Providers to perform required corrective actions.
 RECORD KEEPING, INVENTORY, & REPORTING	Regulatory Authority	<ul style="list-style-type: none"> Administer a database inventory (locations, site evaluations, record drawings, permits, performed maintenance, inspection reports) of all systems. Maintain a residuals treatment and disposal tracking system. Maintain a current certified/licensed Service Provider listing that is available to the public. Administer an Owner/Service Provider maintenance contract compliance and certified maintenance report tracking system. Record maintenance contract requirement on property deed. Administer a certified maintenance report tracking system.
	Operator	<ul style="list-style-type: none"> Provide certified report of all maintenance and observed system deficiencies to Owner.
	Pumper/Hauler	<ul style="list-style-type: none"> Prepare and submit records of residuals handling as required.
	Owner	<ul style="list-style-type: none"> Maintain approved record drawings and O&M manual of system. Maintain maintenance records of system. Provide drawings, specifications, O&M manual, and maintenance records to new property owner at time of property transfer.
 FINANCIAL ASSISTANCE & FUNDING	Regulatory Authority	<ul style="list-style-type: none"> Provide the legal and financial support to sustain the management program. Provide a listing of financial assistance programs available to Owner/User and the qualifying criteria for each program. Consider implementing a state or local financing program to assist Owners in upgrading their systems.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

MANAGEMENT MODEL 3: OPERATING PERMITS

Objective: To issue renewable/revocable operating permits to system Owner that stipulate specific and measurable performance criteria for the treatment system and periodic submittals of compliance monitoring reports. The performance criteria are based on risks to public health and water resources posed by wastewater dispersal in the receiving environment. Operating permits allow the use of clustered or onsite systems on sites with a greater range of site characteristics.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 PUBLIC EDUCATION AND PARTICIPATION	Regulatory Authority	<ul style="list-style-type: none"> Educate Owner/User on purpose, use, and care of treatment system. Provide public review and comment periods of any proposed program and/or rule changes.
	Service Provider	<ul style="list-style-type: none"> Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
	Owner/User	<ul style="list-style-type: none"> Be informed of purpose, use, and care of treatment system. Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
 PLANNING	Regulatory Authority	<ul style="list-style-type: none"> Coordinate program rules and regulations with state, tribal, and local planning and zoning and other water-related programs. Evaluate potential risks of wastewater discharges to limit environmental impacts on receiving environments during the rule making process. Limit potential risks of environmental impacts from residuals management program and evaluate available handling/treatment capacities. Inform local planning authority of rule changes and recommend its evaluation of potential impacts on land use.
	Developer	<ul style="list-style-type: none"> Hire planners, certified site evaluators, and designers to ensure that all lots of proposed subdivision plats meet requirements for onsite treatment prior to final plat.
 PERFORMANCE	Regulatory Authority	<ul style="list-style-type: none"> Establish system failure criteria to protect public health, e.g., wastewater backups in building, wastewater ponding on ground surface, insufficient separation from ground water or wells. Establish minimum maintenance requirements for approved systems. Establish performance criteria necessary to protect public health and water resources for each defined receiving environment in Regulatory Authority's jurisdiction.
	Owner/User	<ul style="list-style-type: none"> Operate and regularly maintain system in proper working order. Operate system to comply with performance criteria stipulated in operating permit.
 TRAINING AND CERTIFICATION/LICENSING	Licensing Board/Regulatory Authority	<ul style="list-style-type: none"> Develop and administer a training, testing, and certification/licensing program for site evaluators, designers, contractors, operators, pumpers/haulers, and inspectors. Maintain a current certified/licensed Service Provider listing.
	Service Provider	<ul style="list-style-type: none"> Obtain appropriate certification(s)/license(s) and continuing education as required. Obtain training from the manufacturer or vendor regarding appropriate use, installation requirements, and O&M procedures of any proprietary equipment to be installed. Comply with applicable federal, state, tribal, and local requirements.
	Owner/User	<ul style="list-style-type: none"> When using third-party services, contract with only the appropriate certified/licensed Service Providers.
 SITE EVALUATION	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive requirements for site evaluation procedures. Codify criteria for treatment site characteristics suitable for permitted designs that will prevent unacceptable impacts on ground and surface water resources. Establish defining characteristics for each receiving environment in the Regulatory Authority's jurisdiction.
	Site Evaluator	<ul style="list-style-type: none"> Obtain certification/license to practice. Describe site and soil characteristics, determine suitability of site with respect to code requirements, and estimate site's hydraulic and treatment capacity. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed site evaluator to perform site evaluation.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

MANAGEMENT MODEL 3: OPERATING PERMITS

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 DESIGN	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive, preengineered designs that are suitable for treatment sites that meet the appropriate prescriptive site criteria. Administer a plan review program for engineered designs to meet stipulated performance criteria. Require submission of routine operation and emergency contingency plans that will sustain system performance and avoid unpermitted discharges.
	Designer	<ul style="list-style-type: none"> Obtain certification/license to practice. Certified/licensed designer to design treatment system that is compatible with the site and soil characteristics described by the site evaluator. Comply with applicable federal, state, tribal, and local requirements in the design of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed designer to prepare system design.
 CONSTRUCTION	Regulatory Authority	<ul style="list-style-type: none"> Administer a permitting program for system construction, including Regulatory Authority review of proposed system siting and design plans. Require designer of record to certify that completed system construction is in substantial compliance with approved plans and specifications. Require that record drawings of constructed system be submitted to the Regulatory Authority by Owner. Require Owner to submit a copy of system O&M manual to the Regulatory Authority.
	Contractor/ Installer	<ul style="list-style-type: none"> Obtain certification/license to practice. Construct the system in accordance with the approved plans and specifications. Prepare record drawings of completed system and submit to Owner. Provide Owner with an O&M manual describing component manufacturer's maintenance and troubleshooting requirements/recommendations. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Designer of Record	<ul style="list-style-type: none"> Approve proposed field changes and submit to Owner. Certify that construction of the system is substantially in conformance with the approved plans and specifications.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed contractor/installer to construct system. Submit final record drawings of constructed system to Regulatory Authority. Submit a copy of system O&M manual to Regulatory Authority to record required maintenance.
 OPERATION & MAINTENANCE	Regulatory Authority	<ul style="list-style-type: none"> Provide Owner/User with educational materials regarding system use and care. Administer a program of renewable/revocable operating permits that are issued to Owner stipulating system performance criteria, compliance monitoring reporting schedule, term of permit, and renewal option upon documented compliance with permit. Track and review compliance monitoring reports to ensure that systems are operating in accordance with operating permits.
	Operator	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect and service system as necessary in accordance with the submitted O&M manual and/or operating permit stipulations. Certify to Owner that the required maintenance was performed in a timely manner, describing any system deficiencies observed. Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Pumper/Hauler	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect and service system as necessary. Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed pumper/hauler or operator to maintain system. Maintain system in proper working order. Operate and maintain the system in accordance with O&M manual and/or operating permit stipulations. Submit compliance monitoring reports to the Regulatory Authority according to the schedule stipulated in the operating permit.
	User	<ul style="list-style-type: none"> Follow recommendations provided by Regulatory Authority and/or Service Providers to ensure that undesirable or prohibited materials are not discharged to system.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 RESIDUALS MANAGEMENT	Regulatory Authority	<ul style="list-style-type: none"> Administer a tracking system for residuals hauling, treatment, and disposal and review to evaluate compliance with 40 CFR Part 503 Use and Disposal of Sewage Sludge, 40 CFR Part 257, and applicable state, tribal, and local requirements. Inventory available residuals handling/treatment capacities and develop contingency plans to ensure that sufficient capacities are always available.
	Pumper/Hauler	<ul style="list-style-type: none"> Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of treatment system residuals.
 COMPLIANCE INSPECTIONS/ MONITORING	Regulatory Authority	<ul style="list-style-type: none"> Perform inspection programs at point-of-sale, change-in-use of properties, "targeted areas," and/or systems reported to be in violation. Conduct compliance inspections of residuals hauling, treatment, and disposal. Administer a program to monitor timely submittals of acceptable compliance maintenance reports. Notify Owner of impending scheduled submittals of compliance monitoring reports. Perform system inspections randomly and/or at time of operating permit renewal.
	Operator or Pumper/Hauler	<ul style="list-style-type: none"> Inform Owner of any noncompliant items observed during routine servicing of system.
	Owner	<ul style="list-style-type: none"> Submit compliance monitoring reports to Regulatory Authority as stipulated in operating permit. Submit compliance inspection report signed/sealed by a certified/licensed inspector prior to applying for renewal of operating permit.
 CORRECTIVE ACTIONS	Regulatory Authority	<ul style="list-style-type: none"> Negotiate compliance schedule with Owner for correcting documented noncompliant items. Administer enforcement program including fines and/or penalties for failure to comply with compliance requirements. Obtain necessary authority to enter property to correct imminent threats to public health if the Owner/User fails to comply. Require system inspection by certified inspector at time of operating permit renewal.
	Designer	<ul style="list-style-type: none"> Provide Owner with documents (drawings, specifications, modifications, etc.) that may be required by Regulatory Authority prior to corrective action.
	Contractor/ Installer	<ul style="list-style-type: none"> Perform required repairs, modifications, and upgrades as necessary.
	Inspector	<ul style="list-style-type: none"> Obtain certification/license to practice. Inspect treatment system for compliance with operating permit prior to permit renewal.
	Owner	<ul style="list-style-type: none"> Comply with terms and conditions of the negotiated compliance schedule. Submit required documents for corrective actions to Regulatory Authority. Hire appropriate certified/licensed Service Providers to perform required corrective actions.
 RECORD KEEPING, INVENTORY, & REPORTING	Regulatory Authority	<ul style="list-style-type: none"> Administer a database inventory (locations, site evaluations, record drawings, permits, performed maintenance, and inspection reports) of all systems. Maintain a residuals treatment and disposal tracking system. Maintain a current certified/licensed Service Provider listing that is available to the public. Administer a tracking system for operating permits. Administer a tracking database for compliance reports.
	Operator or Inspector	<ul style="list-style-type: none"> Provide certified report of all maintenance and observed system deficiencies to Owner. Perform system monitoring as stipulated in Owner's operating permit.
	Pumper/Hauler	<ul style="list-style-type: none"> Prepare and submit records of residuals handling as required.
	Owner	<ul style="list-style-type: none"> Maintain approved record drawings and O&M manual of system. Maintain maintenance records of system. Submit compliance monitoring reports to Regulatory Authority. Provide drawings, specifications, O&M manual, and maintenance records to new property owner at time of property transfer.
 FINANCIAL ASSISTANCE & FUNDING	Regulatory Authority	<ul style="list-style-type: none"> Provide the legal and financial support to sustain the management program. Provide a listing of financial assistance programs available to Owner/User and the qualifying criteria for each program. Consider implementing a state or local financing program to assist Owners in upgrading their systems.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

MANAGEMENT MODEL 4: RME OPERATION AND MAINTENANCE

Objective: To ensure that onsite/decentralized systems consistently meet their stipulated performance criteria through Responsible Management Entities that are responsible for operation and performance of systems within their service areas.

MANAGEMENT MODEL 4: RME OPERATION AND MAINTENANCE	PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
	 PUBLIC EDUCATION AND PARTICIPATION	Regulatory Authority	<ul style="list-style-type: none"> Educate Owner/User on purpose, use, and care of treatment system. Hold public meetings to inform the public of any proposed program and/or rule changes.
		Service Provider	<ul style="list-style-type: none"> Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
		Owner/User	<ul style="list-style-type: none"> Be informed of purpose, use, and care of treatment system. Be informed of existing rules and review and comment on any proposed program and/or rule changes. Participate in advisory committees established by the Regulatory Authority.
		RME	<ul style="list-style-type: none"> Inform Owner/User of care and use of system. Inform Owner/User of RME requirements and prohibited uses of system.
	 PLANNING	Regulatory Authority	<ul style="list-style-type: none"> Coordinate program rules and regulations with state, tribal, and local planning and zoning and other water-related programs. Evaluate potential risks of wastewater discharges to limit environmental impacts on receiving environments during the rule making process. Limit potential risks of environmental impacts from residuals management program and evaluate available handling/treatment capacities. Inform local planning authority of rule changes and recommend their evaluation of potential impacts on land use.
		Developer	<ul style="list-style-type: none"> Hire planners, certified site evaluators, and designers to ensure that all lots of proposed subdivision plats meet requirements for onsite treatment prior to final plat.
		RME	<ul style="list-style-type: none"> Develop criteria (e.g., site evaluation, design, construction) to be required of systems for acceptance into O&M program and inform Owners. Continuously evaluate existing wastewater treatment needs and forecast future needs.
	 PERFORMANCE	Regulatory Authority	<ul style="list-style-type: none"> Establish system failure criteria to protect public health, e.g., wastewater backups in building, wastewater ponding on ground surface, insufficient separation from ground water or wells. Establish minimum maintenance requirements for approved systems. Establish performance criteria necessary to protect public health and water resources for each defined receiving environment in the Regulatory Authority's jurisdiction.
		Owner	<ul style="list-style-type: none"> Regularly maintain system components in proper working order. Comply with any RME requirements regarding care and use of the system.
RME		<ul style="list-style-type: none"> Operate systems to comply with performance criteria stipulated in the operating permits. 	
 TRAINING AND CERTIFICATION/LICENSING	Licensing Board/Regulatory Authority	<ul style="list-style-type: none"> Develop and administer training, testing, and certification/licensing program for site evaluators, designers, contractors, operators, pumpers/haulers, and inspectors. Maintain a current certified/licensed Service Provider listing. 	
	Service Provider	<ul style="list-style-type: none"> Obtain appropriate certification(s)/license(s) and continuing education as required. Obtain training from the manufacturer or vendor regarding appropriate use, installation requirements, and operation and maintenance procedures of any proprietary equipment to be installed. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal. 	
	Owner	<ul style="list-style-type: none"> When using third-party services, contract only with the appropriate certified/licensed Service Providers. 	
	RME	<ul style="list-style-type: none"> When using third-party services, contract with only the appropriate certified/licensed Service Providers. Ensure that RME staff who operate and/or maintain systems obtain appropriate certification(s)/license(s) to practice. Arrange for supplemental training as needed for Service Providers and/or staff to manage, operate, and/or maintain systems. 	

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 SITE EVALUATION	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive requirements for site evaluation procedures. Codify criteria for treatment site characteristics suitable for permitted designs that will prevent unacceptable impacts on ground and surface water resources. Establish the defining characteristics of each receiving environment in the Regulatory Authority's jurisdiction. Approve and oversee site evaluation procedures required by RME for system acceptance in the O&M program to ensure that system designs are appropriate for the sites and their stipulated performance criteria.
	Site Evaluator	<ul style="list-style-type: none"> Obtain certification/license to practice. Describe site and soil characteristics, determine suitability of site with respect to code requirements, and estimate site's hydraulic and treatment capacity. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed site evaluator to perform site evaluation. Comply with any additional siting requirements established by RME for system acceptance in the O&M program.
 DESIGN	Regulatory Authority	<ul style="list-style-type: none"> Codify prescriptive, pre-engineered designs that are suitable for treatment sites that meet the appropriate prescriptive site criteria. Administer a plan review program for engineered designs to meet stipulated performance criteria. Require submission of routine operation and emergency contingency plans that will sustain system performance and avoid unpermitted discharges.
	Designer	<ul style="list-style-type: none"> Obtain certification/license to practice. Design treatment system that is compatible with the site and soil characteristics described by the site evaluator. Comply with applicable federal, state, tribal, and local requirements in the design of wastewater treatment and dispersal systems.
	Owner	<ul style="list-style-type: none"> Hire a certified/licensed designer to prepare system design. Comply with any additional design requirements established by the RME for system acceptance in the O&M program.
 CONSTRUCTION	Regulatory Authority	<ul style="list-style-type: none"> Administer a permitting program for system construction, including Regulatory Authority review of proposed system siting and design plans. Require designer of record to certify that completed system construction is in substantial compliance with approved plans and specifications. Require that record drawings of constructed system be submitted to the Regulatory Authority by Owner. Require Owner to submit a copy of system O&M manual to the Regulatory Authority and RME.
	Contractor/ Installer	<ul style="list-style-type: none"> Obtain certification/license to practice. Construct system in accordance with the approved plans and specifications. Prepare record drawings of completed system and submit to Owner. Provide Owner with an O&M manual describing component manufacturer's maintenance and troubleshooting requirements/recommendations. Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Designer of Record	<ul style="list-style-type: none"> Approve proposed field changes and submit to Owner. Certify that construction of the system is substantially in conformance with the approved plans and specifications.
	Owner	<ul style="list-style-type: none"> Comply with any additional construction requirements established by the RME for system acceptance in the O&M program. Hire a certified/licensed designer to prepare system design. Submit final record drawings of constructed system to Regulatory Authority. Submit a copy of the system O&M manual to the Regulatory Authority and RME to record required maintenance.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

MANAGEMENT MODEL 4: RME OPERATION AND MAINTENANCE

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 OPERATION & MAINTENANCE	Regulatory Authority	<ul style="list-style-type: none"> • Provide Owner/User with educational materials regarding system use and care. • Administer a program of renewable/revocable operating permits that are issued to RME, stipulating system performance criteria, compliance monitoring reporting schedule, term of permit, and renewal option upon documented compliance with operating permit stipulations. • Track and review compliance monitoring reports to ensure that systems are operating in accordance with operating permits. • Consider replacing individual system operating permits with general permits issued to the RME for classes of systems.
	Operator	<ul style="list-style-type: none"> • Inspect and service the system as necessary in accordance with the submitted O&M manual and/or operating permit stipulations. • Perform system monitoring as stipulated in RME's operating permit. • Certify to RME that the required maintenance and monitoring was performed in a timely manner and noting any system deficiencies. • Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Pumper/Hauler	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Inspect and service system as necessary. • Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of treatment and dispersal system.
	Owner/User	<ul style="list-style-type: none"> • Follow recommendations provided by Regulatory Authority, Service Providers, and/or Owner to ensure that undesirable or prohibited materials are not discharged to system. • Maintain system components in proper working order. • Comply with any RME requirements regarding care and use of system.
	RME	<ul style="list-style-type: none"> • Operate and maintain systems in accordance with the stipulated operating permit requirements. • Submit compliance monitoring reports to the Regulatory Authority according to the schedule stipulated in the operating permit. • Hire a certified/licensed pumper/hauler or operator to maintain system.
 RESIDUALS MANAGEMENT	Regulatory Authority	<ul style="list-style-type: none"> • Administer a tracking system for residuals hauling, treatment, and disposal and review to evaluate compliance with 40 CFR Part 503 Use and Disposal of Sewage Sludge, 40 CFR Part 257, and applicable state, tribal, and local requirements. • Inventory available residuals handling/treatment capacities and develop contingency plans to ensure that sufficient capacities are always available.
	Pumper/Hauler	<ul style="list-style-type: none"> • Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of wastewater treatment system residuals.
	RME	<ul style="list-style-type: none"> • Hire a certified/licensed pumper/hauler to remove, treat, and dispose of residuals. • Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of treatment system residuals. • Inventory available residuals handling/treatment capacities and develop contingency plans when insufficient capacities are available.
 COMPLIANCE INSPECTIONS/ MONITORING	Regulatory Authority	<ul style="list-style-type: none"> • Perform inspection programs at point-of-sale, change-in-use of properties, "targeted areas," and/or systems reported to be in violation. • Conduct compliance inspections of residuals hauling, treatment, and disposal. • Administer a program to monitor timely submittals of acceptable compliance maintenance reports. • Perform system inspections randomly and/or at time of operating permit renewal.
	Inspector	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Perform system compliance inspections for RME in accordance with prevailing Regulatory Authority requirements.
	RME	<ul style="list-style-type: none"> • Submit compliance monitoring reports to the Regulatory Authority as stipulated in operating permit. • Submit compliance inspection report signed/sealed by a certified/licensed inspector prior to applying for renewal of operating permit. • Conduct regular reviews of management program with Owner/User and Regulatory Authority to optimize system operation program. • Hire a certified/licensed inspector to inspect system compliance status.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 CORRECTIVE ACTIONS	Regulatory Authority	<ul style="list-style-type: none"> • Negotiate compliance schedules with RME for correcting documented noncompliance items. • Administer enforcement program including fines and/or penalties for failure to comply with compliance requirements. • Obtain necessary authority to enter property to correct imminent threats to public health if the Owner/User fails to comply. • Require system inspection by certified inspector at time of operating permit renewal. • Negotiate compliance schedules with RME, Owner/User, or both, for correcting documented noncompliance items.
	Designer	<ul style="list-style-type: none"> • Provide Owner/RME with documents (drawings, specifications, modifications, etc.) that may be required by the Regulatory Authority prior to corrective actions.
	Contractor/ Installer	<ul style="list-style-type: none"> • Perform required repairs, modifications, and upgrades as necessary.
	Inspector	<ul style="list-style-type: none"> • Inspect treatment system for compliance with operating permit prior to permit renewal.
	Owner	<ul style="list-style-type: none"> • Comply with terms and conditions of the negotiated compliance schedule for component replacement/repairs. • Submit required documents for corrective actions to Regulatory Authority. • Hire appropriate certified/licensed Service Providers to perform required corrective actions.
	RME	<ul style="list-style-type: none"> • Comply with terms and conditions of the negotiated compliance schedule for system performance.
 RECORD KEEPING, INVENTORY, & REPORTING	Regulatory Authority	<ul style="list-style-type: none"> • Administer a database inventory (locations, site evaluations, record drawings, permits, performed maintenance, and inspection reports) of all systems. • Maintain a residuals treatment and disposal tracking system. • Maintain a current certified/licensed Service Provider listing that is available to the public. • Administer a tracking system for operating permits. • Administer a tracking database for compliance reports. • Administer periodic financial, management, and technical audits of RME.
	Operator or Inspector	<ul style="list-style-type: none"> • Provide certified report of all maintenance and observed system deficiencies to RME. • Provide certified report of all observed system deficiencies to Owner. • Perform system monitoring as stipulated in RME's operating permit.
	Pumper/Hauler	<ul style="list-style-type: none"> • Prepare and submit records of residuals handling as required.
	Owner	<ul style="list-style-type: none"> • Maintain approved record drawings and O&M manual of system. • Maintain maintenance records of system. • Provide drawings, specifications, O&M manual, and maintenance records to new property owner at time of property transfer.
	RME	<ul style="list-style-type: none"> • Maintain system monitoring and service records. • Inventory, collect, and provide permit information to Regulatory Authority.
 FINANCIAL ASSISTANCE & FUNDING	Regulatory Authority	<ul style="list-style-type: none"> • Provide the legal and financial support to sustain the management program. • Provide a listing of financial assistance programs available to Owner/User and the qualifying criteria for each program. • Consider implementing a state or local financing program to assist Owners in upgrading their systems.
	RME	<ul style="list-style-type: none"> • Conduct regular reviews of management program with Owner/User and Regulatory Authority to optimize operations.

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MANAGEMENT MODEL 5: RME OWNERSHIP

Objective: To provide professional management of the planning, siting, design, construction, operation, and maintenance of onsite/decentralized systems through Responsible Management Entities that own and manage individual and clustered systems within their service areas.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 PUBLIC EDUCATION AND PARTICIPATION	Regulatory Authority	<ul style="list-style-type: none"> Educate Owner/User on purpose, use, and care of treatment system. Provide public review and comment periods of any proposed program and/or rule changes.
	Service Provider	<ul style="list-style-type: none"> Be informed of existing rules, and review and comment on any proposed program or rule changes. Participate in advisory committees established by the Regulatory Authority.
	RME	<ul style="list-style-type: none"> Inform User of care and use of system. Inform User of RME requirements and prohibited uses of system.
	User	<ul style="list-style-type: none"> Be informed of purpose, use, and care of treatment system.
 PLANNING	Regulatory Authority	<ul style="list-style-type: none"> Coordinate program rules and regulations with state, tribal, and local planning and zoning and other water-related programs. Evaluate potential risks of wastewater discharges to limit environmental impacts on receiving environments during the rule making process. Limit potential risks of environmental impacts from residuals management program and evaluate available handling/treatment capacities. Inform local planning authority of rule changes and recommend their evaluation of potential impacts on land use.
	Developer	<ul style="list-style-type: none"> Hire planners, certified site evaluators, and designers to ensure that all lots of proposed subdivision plats meet requirements for onsite treatment prior to final plat.
	RME	<ul style="list-style-type: none"> Continuously evaluate existing wastewater treatment needs and forecast future needs. Require developers to submit proposed subdivision plats to RME for review and comment to ensure compatibility with RME requirements. Plan most cost-effective approach to meeting treatment needs through appropriate mix of central sewerage, clusters, and individual onsite systems.
 PERFORMANCE	Regulatory Authority	<ul style="list-style-type: none"> Establish system failure criteria to protect public health, e.g., wastewater backups in building, wastewater ponding on ground surface, insufficient separation from ground water or wells. Establish minimum maintenance requirements for approved systems. Establish performance criteria necessary to protect public health and water resources for each defined receiving environment in the Regulatory Authority's jurisdiction.
	RME	<ul style="list-style-type: none"> Operate, maintain, and repair systems to comply with performance criteria stipulated in the operating permits.
	User	<ul style="list-style-type: none"> Comply with any RME requirements regarding care and use of the system.
 TRAINING AND CERTIFICATION/LICENSING	Licensing Board/Regulatory Authority	<ul style="list-style-type: none"> Develop and administer training, testing, and certification/licensing program for site evaluators, designers, contractors, pumpers/haulers, inspectors, and operators. Maintain a current certified/licensed Service Provider listing.
	Service Provider	<ul style="list-style-type: none"> Obtain appropriate certification(s)/license(s) and continuing education as required. Obtain training from the manufacturer or vendor regarding appropriate use, installation requirements, and operation and maintenance procedures of any proprietary equipment to be installed. Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal.
	RME	<ul style="list-style-type: none"> When using-third party services, contract with only certified/licensed Service Providers. RME staff who site, design, construct, operate, and/or maintain systems must obtain appropriate certification(s)/license(s) to practice. Arrange for supplemental training as needed for Service Providers and/or staff to manage, operate, and/or maintain systems.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 SITE EVALUATION	Regulatory Authority	<ul style="list-style-type: none"> • Codify prescriptive requirements for site evaluation procedures. • Codify criteria for treatment site characteristics suitable for permitted designs that will prevent unacceptable impacts on ground and surface water resources. • Establish the defining characteristics of each receiving environment in the Regulatory Authority's jurisdiction. • Approve and oversee site evaluation procedures used by RME to ensure that system designs are appropriate for the sites and their stipulated performance criteria.
	Site Evaluator	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Describe site and soil characteristics, determine suitability of site with respect to code requirements, and estimate site's hydraulic and treatment capacity. • Comply with applicable federal, state, tribal, and local requirements in the evaluation of sites for wastewater treatment and dispersal.
	RME	<ul style="list-style-type: none"> • Hire a certified/licensed site evaluator to perform site evaluation.
 DESIGN	Regulatory Authority	<ul style="list-style-type: none"> • Codify prescriptive, pre-engineered designs that are suitable for treatment sites that meet the appropriate prescriptive site criteria. • Administer the plan review program for engineered designs to meet stipulated performance criteria. • Require routine operation and emergency contingency plans that will sustain system performance and avoid the submission of unpermitted discharges.
	Designer	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Design treatment system that is compatible with the site and soil characteristics described by the site evaluator. • Comply with applicable federal, state, tribal, and local requirements in the design of wastewater treatment and dispersal systems.
	RME	<ul style="list-style-type: none"> • Hire a certified/licensed designer to prepare system design.
 CONSTRUCTION	Regulatory Design	<ul style="list-style-type: none"> • Administer a permitting program for system construction, including Regulatory Authority review of proposed system siting and design plans. • Require designer of record to certify that completed system construction is in substantial compliance with approved plans and specifications. • Require that record drawings of constructed system be submitted to the Regulatory Authority by RME.
	Contractor/ Installer	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Construct system in accordance with the approved plans and specifications. • Prepare record drawings of completed system and submit to RME. • Provide RME with an O&M manual describing component manufacturer's maintenance and troubleshooting requirements/recommendations. • Comply with applicable federal, state, tribal, and local requirements in the design and construction of wastewater treatment and dispersal systems.
	Designer of Record	<ul style="list-style-type: none"> • Approve proposed field changes and submit to RME. • Certify that construction of the system is substantially in conformance with the approved plans and specifications.
	RME	<ul style="list-style-type: none"> • Hire a certified/licensed designer to prepare system design. • Submit final record drawings of constructed system to Regulatory Authority. • Submit a copy of system O&M manual to the Regulatory Authority to record required maintenance.

MANAGEMENT MODEL 5: RME OWNERSHIP

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 <p>OPERATION & MAINTENANCE</p>	Regulatory Authority	<ul style="list-style-type: none"> • Provide User with educational materials regarding system use and care. • Administer a program of renewable/revocable operating permits that are issued to RME that stipulate system performance, compliance monitoring reporting schedule, term of permit, and renewal option upon documented compliance with operating permit stipulations. • Track and review compliance monitoring reports to ensure that systems are operating in accordance with operating permits. • Consider replacing individual system operating permits with general permits issued to RME for classes of systems.
	Operator	<ul style="list-style-type: none"> • Inspect and service system as necessary in accordance with the submitted O&M manual and/or operating permit stipulations. • Perform system monitoring as stipulated in RME's operating permit. • Certify to RME that the required maintenance and monitoring were performed in a timely manner and noting any system deficiencies. • Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	Pumper/Hauler	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Inspect and service system as necessary. • Comply with applicable federal, state, tribal, and local requirements in the operation and maintenance of the treatment and dispersal system.
	User	<ul style="list-style-type: none"> • Follow recommendations provided by Regulatory Authority, Service Providers, and/or Owner to ensure that undesirable or prohibited materials are not discharged to system. • Comply with any RME requirements regarding care and use of system.
	RME	<ul style="list-style-type: none"> • Operate and maintain systems in accordance with the stipulated operating permit requirements. • Submit compliance monitoring reports to the Regulatory Authority according to the schedule stipulated in the operating permit. • Hire a certified/licensed pumper/hauler or operator to maintain system.
 <p>RESIDUALS MANAGEMENT</p>	Regulatory Authority	<ul style="list-style-type: none"> • Administer a tracking system for residuals hauling, treatment, and disposal and review to evaluate compliance with 40 CFR Part 503 Use and Disposal of Sewage Sludge, 40 CFR Part 257, and applicable state, tribal, and local requirements. • Inventory available residuals handling/treatment capacities and develop contingency plans when capacities available are insufficient.
	Pumper/ Hauler	<ul style="list-style-type: none"> • Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of wastewater treatment system residuals.
	RME	<ul style="list-style-type: none"> • Hire a certified/licensed pumper/hauler to remove, treat, and dispose of residuals. • Comply with applicable federal, state, tribal, and local requirements in the pumping, hauling, treatment, and disposal of treatment system residuals. • Inventory available residuals handling/treatment capacities and develop contingency plans when capacities available are insufficient.
 <p>COMPLIANCE INSPECTIONS/ MONITORING</p>	Regulatory Authority	<ul style="list-style-type: none"> • Perform inspection programs at point-of-sale, change-in-use of properties, "targeted areas," and/or systems reported to be in violation. • Conduct compliance inspections of residuals hauling, treatment, and disposal. • Administer a program to monitor timely submittals of acceptable compliance maintenance reports. • Perform system inspections randomly and/or at the time of operating permit renewal.
	Inspector	<ul style="list-style-type: none"> • Obtain certification/license to practice. • Perform system compliance inspections for RME in accordance with prevailing Regulatory Authority requirements.
	RME	<ul style="list-style-type: none"> • Submit compliance monitoring reports to Regulatory Authority as stipulated in operating permit. • Submit a compliance inspection report signed/sealed by a certified/licensed inspector prior to applying for renewal of operating permit. • Conduct regular reviews of management program with Regulatory Authority to optimize system operation program. • Hire a certified/licensed inspector to inspect system compliance status.

¹ Activities in bold are activities added to program elements from the preceding Management Model.

PROGRAM ELEMENT	RESPONSIBLE PARTY	ACTIVITY ¹
 CORRECTIVE ACTIONS	Regulatory Authority	<ul style="list-style-type: none"> • Negotiate compliance schedules with RME for correcting documented noncompliance items. • Administer the enforcement program including fines and/or penalties for failure to comply with compliance requirements. • Require system inspection by a certified inspector at time of operating permit renewal. • Negotiate compliance schedules with RME for correcting documented noncompliance items.
	Designer	<ul style="list-style-type: none"> • Provide RME with documents (drawings, specifications, modifications, etc.) that may be required by the Regulatory Authority prior to corrective action.
	Contractor/ Installer	<ul style="list-style-type: none"> • Perform required repairs, modifications, and upgrades as necessary.
	Inspector	<ul style="list-style-type: none"> • Inspect treatment system for compliance with operating permit prior to permit renewal.
	RME	<ul style="list-style-type: none"> • Comply with terms and conditions of the negotiated compliance schedule. • Submit required documents for corrective actions to the Regulatory Authority. • Hire appropriate certified/licensed Service Providers to perform required corrective actions.
 RECORD KEEPING, INVENTORY, & REPORTING	Regulatory Authority	<ul style="list-style-type: none"> • Administer a database inventory (locations, site evaluations, record drawings, permits, and inspection reports) of all systems within the Regulatory Authority's jurisdiction. • Maintain a residuals treatment and disposal tracking system. • Maintain a current certified/licensed Service Provider listing, which is available to the RMEs. • Administer a tracking system for operating permits. • Administer a tracking database for compliance reports. • Administer financial, management, and technical audits of RME.
	Operator or Inspector	<ul style="list-style-type: none"> • Provide a certified report of all maintenance and observed system deficiencies to RME. • Provide a certified report of all observed system deficiencies to Owner. • Perform system monitoring as stipulated in RME's operating permit.
	Pumper/Hauler	<ul style="list-style-type: none"> • Prepare and submit records of residuals handling as required.
	RME	<ul style="list-style-type: none"> • Maintain system monitoring and service records. • Inventory, collect, and provide permit information to Regulatory Authority.
 FINANCIAL ASSISTANCE & FUNDING	Regulatory Authority	<ul style="list-style-type: none"> • Provide the legal and financial support to sustain the regulatory program. • Provide a listing of financial assistance programs available to RME and the qualifying criteria for each program. • Consider implementing a state or local financing program to assist RME in upgrading systems.
	RME	<ul style="list-style-type: none"> • Conduct regular reviews of management program with Regulatory Authority to optimize operations.

MANAGEMENT MODEL 5: RME OWNERSHIP

¹ Activities in bold are activities added to program elements from the preceding Management Model.

APPENDIX B: RELATIONSHIP TO OTHER EPA WATER PROGRAMS

APPENDIX B: RELATIONSHIP TO OTHER EPA WATER PROGRAMS

The Management Guidelines will help support the activities and approaches being applied in several other EPA programs and contribute toward achieving mutual water quality objectives and public health protection goals. Related programs include watershed management, water quality management, biosolids and residuals management, nonpoint source control, source water assessment and protection, underground injection control, water permitting, and coastal zone management. The relationship of the Management Guidelines to these companion programs is summarized in the following discussion.

Watershed Management. The Management Guidelines can be integrated into a comprehensive watershed approach at the state, tribal, or local government level. There are clear benefits to managing onsite/centralized systems at the basin, watershed, or subwatershed level. Ideally, the use of a watershed approach will facilitate the identification of both existing and anticipated sources of pollutants of concern, e.g., nutrient and pathogens, and allow the appropriate jurisdictions to take coordinated actions to protect or restore an identified resource. In such an approach, short- and long-term wastewater management plans and actions for both centralized and decentralized systems can be integrated into a comprehensive plan that may include analyses and actions that address the impacts of other contributing sources of pollutants such as animal waste, wildlife, or agriculture. The use of a watershed approach also encourages the coordination of management entities and actions across jurisdictions. Interjurisdictional planning and coordination can result in more efficient resource utilization, including data sharing, and also help to avoid inconsistent management policies or requirements that can cause unanticipated



consequences, such as accelerated growth in adjacent communities due to their less burdensome requirements or lower costs.

National Pollutant Discharge Elimination System (NPDES). In 1972 Congress established the NPDES program under the Clean Water Act (CWA). Under the CWA, discharge of a pollutant from a point source to waters of the United States is prohibited unless that discharge is authorized by an NPDES (CWA Section 402) or wetlands (CWA Section 404) permit. The NPDES program includes discharges to ground water with a direct hydrologic connection to surface water. NPDES permits are issued by a state or tribe authorized to implement the NPDES program, or by EPA if there is no authorized state or tribe. The NPDES permit establishes necessary technology-based and water quality-based terms, limitations, and conditions on the discharge to protect public health and the environment.

EPA's NPDES regulations (40 CFR 122.28) provide for issuance of a "general permit" to authorize discharges from similarly situated facilities such as onsite and clustered systems. Several states, including Arkansas, Kentucky, and North Carolina, issue general permits. The draft Management Handbook contains an example of the key aspects of a general permit.

Biosolids and Residuals Management. The 1987 Amendments to the CWA required the development of comprehensive requirements for the use and disposal of sewage sludge (biosolids). As defined in the resulting "Use and Disposal of Sewage Sludge" rule at 40 CFR Part 503, *sewage sludge* includes the residuals produced by the treatment of domestic sewage (other than grit and screenings) and includes septage from onsite and clustered wastewater treatment systems. The Part 503 rule (along with the nonhazardous solid waste disposal requirements under 40 CFR Parts 257 and 258, which apply when domestic septage is mixed with other waste sources by pumpers) establish minimum federal requirements for the proper management of septage from onsite and clustered wastewater treatment systems. EPA has developed supplemental guidance on the management of septage in *Domestic Septage Regulatory Guidance: A Guide to the EPA 503 Rule*⁽¹³⁾ and *Guide to Septage Treatment and Disposal*⁽¹⁴⁾. The use and disposal of sewage sludge is usually regulated as part of the NPDES program.

Storm Water Management. Historically, polluted storm water runoff was often transported by municipal separate storm sewer systems (MS4s) or discharged from industrial or construction activities and ultimately discharged into local rivers and streams without treatment. Common pollutants include oil and grease from roadways, pesticides from lawns, sediment from construction sites, and carelessly discarded trash, such as cigarette butts, paper wrappers, and plastic bottles. When deposited into nearby waterways through MS4 discharges, these pollutants can impair the waterways, thereby discouraging recreational use of the resource, contaminating drinking

water supplies, and interfering with the habitat for fish, other aquatic organisms, and wildlife.

In 1990 EPA promulgated rules establishing Phase I of the National Pollutant Discharge Elimination System (NPDES) storm water program. The Phase I program requires communities with MS4s serving populations of 100,000 or greater or sites with industrial or construction activity to implement a storm water management program as a means to control polluted discharges. The Storm Water Phase II Rule, promulgated on December 8, 1999, extends coverage of the NPDES storm water program to certain "small" MS4s and small construction sites. Operators of regulated small MS4s are required to design their programs to reduce the discharge of pollutants to the "maximum extent practicable," protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act.

The Phase II program for MS4s is designed to accommodate a general permit approach using a Notice of Intent (NOI) as the permit application. The operator of a regulated small MS4 must include in the permit application, or NOI, its chosen best management practices (BMPs) and measurable goals for each of six minimum control measures. To help permittees identify the most appropriate BMPs for their programs, EPA will issue a "menu" of BMPs to serve as guidance.

One measure in a Phase II storm water program is the detection and elimination of illicit discharges. EPA has determined that many onsite and clustered systems (typically those that discharge to surface waters) illicitly discharge effluent to storm ditches that drain to storm sewers. In such cases there must be a permit approach to protect the MS4 from pollutants associated with the onsite and clustered system. The Management Guidelines can be used to assist NPDES permit applicants in determining appropriate BMPs.

Water Quality Management (including Total Maximum Daily Loads). Nationally, states have reported in their Clean Water Act Section 303(d)

reports that designated uses are not being met for approximately 5,400 water bodies because of pathogens and that approximately 4,700 water bodies are impaired by nutrients⁽¹²⁾. Onsite wastewater treatment systems are often significant contributors of pathogens and nutrients. Under EPA's current requirements a Total Maximum Daily Load (TMDL) determination is required when the total loading of pollutants to a water body results in a violation of water quality standards. The Agency promotes the control and management of both point and nonpoint source discharges on a watershed basis. If onsite and clustered systems are determined to be a significant source of the pollutants, increased management is needed.

The most common approach to resolving problems with onsite wastewater treatment systems has been to replace the systems with a centralized wastewater treatment and collection system. However, a decentralized approach, with a high level of management, is capable of meeting water quality objectives while offering communities a wider range of options. In these situations, the Management Guidelines can be a valuable tool to use as the basis of TMDL/watershed implementation plans that promote improved management to address identified problems. An appropriate level of management, as described in this document, could reduce pollutant loads to achieve water quality standards. EPA also recognizes, as discussed more fully above, that there are situations where a system is subject to the NPDES program. In such cases, permit requirements should be consistent with any applicable TMDL and water quality standards.

Water Quality Standards. State and tribal water quality standards do not consistently address pathogen and nutrient loadings. This lack of consistency has resulted from a scarcity of information on how to measure, monitor, and evaluate the impacts of pathogens and nutrients on water quality. New methods and information are being developed to assist tribes, states,

and local governments in assessing and developing appropriate management strategies to control these pollutants. EPA is developing recommendations for improved methods to measure and document human health risks due to exposure to the most common pathogens and differing concentrations of these pathogens. A thorough discussion is available in the draft *Implementation Guidance for Ambient Water Quality Criteria for Bacteria-1986*.⁽¹⁵⁾ EPA is also developing a series of *Nutrient Criteria Technical Guidance Manuals*^{(16) (17) (18)} for various water body types, such as rivers and streams. The intent of these documents is to provide states and tribes with methods to assess waterbody nutrient impairment, select criteria, design monitoring programs, and implement management practices. These factors should be considered during the siting, design, and operation of onsite and decentralized wastewater treatment systems.

Source Water Assessment and Protection. The 1996 Amendments to the Safe Drinking Water Act (SDWA) require states and tribes to implement Source Water Assessment and Protection (SWAP) programs that assess areas serving as sources of drinking water, identify potential threats, and implement protection efforts. The SWAP requires states to conduct source water assessments for all their public water systems. Assessments consist of delineating protection areas for the source waters of public drinking water supplies, identifying potential sources of contaminants within these areas, determining the susceptibility of the water supplies to contamination from these potential sources, and making the results of the assessments available to the public. Assessments for many water systems, such as those in rural areas, are likely to inventory onsite and clustered systems located in delineated source water protection areas and identify some of them as priority pollution threats. Communities are encouraged to consider this emerging information from the assessments as a factor in deciding what level of management

of onsite and clustered systems is necessary. Several programs specifically address the protection of ground water because it serves as the source of drinking water for 95 percent of the nation's population in rural areas and for half of the total U.S. population. EPA also recommends the Management Guidelines as a tool in the protection of drinking water sources.

Underground Injection Control (UIC) Program.

Certain onsite systems are regulated under the UIC program. The UIC program was established by the SDWA to protect current and future underground sources of drinking water (USDWs) from contamination caused by subsurface disposal of wastes. EPA groups underground injection into five classes (Classes I–V), from deep to shallow. Class V wells include typically shallow, percolating systems, such as dry wells, leach fields, and similar types of drainage wells that overlie USDWs.

Under the existing federal regulations, most Class V injection wells are authorized by rule provided they meet certain reporting requirements (e.g., submit inventory information) and do not endanger USDWs. EPA recognizes that state, tribal, and local governments commonly regulate onsite systems of varying sizes. Regardless, the UIC program is responsible for ensuring that these entities meet UIC program requirements when regulating large-capacity septic systems (those that accept solely sanitary waste and have the capacity to serve 20 or more people per day). Onsite wastewater treatment systems may also be regulated under the UIC program by an authorized state, tribe, or EPA if they accept industrial, chemical, or other non-sanitary wastes, also called “industrial drainage wells” or “agricultural drainage wells.”

In 1999 the UIC program undertook two efforts relevant to large-capacity septic systems. First, the program promulgated regulations prohibiting the construction of new large-capacity cesspools and ordered all existing large-capacity cesspools to be closed by April 5, 2005. Second, the program completed a

comprehensive study of shallow injection wells, including septic systems, that are regulated under the UIC program.⁽¹⁹⁾ EPA found that although the prevalence of contamination cases appears low relative to the prevalence of these systems, there are documented examples that implicate these large systems as sources of ground water contamination, and they are being addressed locally.

On June 7, 2002 (67 FR 39583), EPA announced a final determination for all subclasses of Class V wells (such as large-capacity septic systems) not included in the December 7, 1999, final UIC rule. The Agency determined that additional federal requirements are not needed at this time and that existing federal underground injection control regulations are adequate to prevent Class V wells from endangering USDWs. This determination is based on the actions EPA is taking to improve the performance of onsite and clustered systems through the development of the Management Guidelines.

Coastal Zone Management Act/Coastal Zone Act Reauthorization Amendments of 1990 (CZMA/CZARA). EPA and the National Oceanic and Atmospheric Administration (NOAA) jointly administer Section 6217 of the CZMA/CZARA. This provision requires the 29 states with approved Coastal Zone Management Programs to establish and implement Coastal Nonpoint Pollution Control Programs. These programs must include management measures for both new and operating onsite sewage dispersal systems (OSDS). The measures are described in EPA's *Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters*⁽²⁰⁾. The measure for new OSDS specifies that they be designed, installed, and operated properly and be situated at safe distances from sensitive resources, including wetlands and floodplains. Protective separation between the bottom of the infiltration system and ground water tables is to be established, and OSDS are to be designed to reduce nitrogen loadings in areas where surface waters might be adversely affected. The

measure for operating OSDS requires operation and maintenance to prevent surface water discharge and reduce loadings to ground water, as well as inspection at regular time intervals and repair or replacement of faulty systems. The OSDS measures described above are consistent with many of the concepts described in the Management Guidelines.

Nonpoint Source Program. Congress established the national nonpoint source program in 1987 when it amended the Clean Water Act with Section 319. States were required to conduct nonpoint source assessments and develop EPA-approved “Nonpoint Source Management Programs.” All states and territories and, as of September 2001, more than 70 tribes (representing over 70 percent of Indian lands) now have EPA-approved nonpoint source assessments and management programs. Typical categories of nonpoint sources identified and addressed in the state, territorial, and tribal assessments and management plans include agriculture, urban, onsite disposal systems, forestry, and hydromodification. In some states the primary responsibility for managing onsite and clustered systems falls within the purview of the nonpoint source program.

Congress provides funding to assist the states, territories, and tribes in developing and implementing their nonpoint source management programs. These funds can be used by states, territories, and tribes to address sources identified in their management program submissions. States, territories, and tribes can use these funds to promote, demonstrate, and fund activities relating to onsite and clustered management programs, including monitoring, program assessments and development, demonstration projects, research, public education and outreach, and system replacement or rehabilitation. The voluntary Management Guidelines are intended to support the achievement of the goals of the state, territorial, and tribal programs as they relate to onsite and clustered program management.

Technology Transfer. EPA recently published the *Onsite Wastewater Treatment Systems Manual*⁽²¹⁾ (Onsite Manual) to provide new information on alternative treatment technologies and to promote a performance-based approach to onsite and clustered wastewater system management. This document is an update of EPA’s 1980 *Design Manual - Onsite Wastewater Treatment and Disposal Systems*⁽²²⁾. The Onsite Manual serves as the technical complement to the Management Guidelines and as a reference to identify the environmental, technological, administrative, and public health factors to consider when developing an improved management program. The Onsite Manual contains information that program managers can use in assessing the environmental impacts of specific onsite and clustered wastewater treatment technologies on both the watershed and individual site levels and in the selection of appropriate technologies.



**Additional copies of this document, (EPA 832-B-03-001),
can be obtained from:**

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**EPA 832-B-03-001
March 2003**

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5c

Legislative Subcommittee
Report

5c

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Florida Taxation and Budget Commission

Member Proposals

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From the Florida Constitution:

“The commission shall examine the state budgetary process, the revenue needs and expenditure processes of the state, the appropriateness of the tax structure of the state, and governmental productivity and efficiency ...”

Proposal Information

With expert testimony and input from the public hearings completed, the members of the Taxation and Budget Reform Commission have begun to submit individual and committee measures in the form of statutory recommendations or constitutional proposals for consideration and debate by one or more of the four substantive committees. During the months of December and January, the measures will be taken up at the committee level and will be reported out either favorably or unfavorably.

Below are listed the committee proposals in order of submission. Chairman Bense assigns each of the measures to a committee of reference: the Finance & Taxation Committee, the Governmental Procedures & Structure Committee, the Governmental Services Committee, or the Planning & Budgetary Processes Committee.

Proposal numbers are based on this key:

- SR: Statutory Recommendation
- ISR: Informal Statutory Recommendation
- CP: Constitutional Proposal
- ICP: Informal Constitutional Proposal

Proposals 1 - 10

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Proposal:	Legislative Session Start Date
Proposal number:	SR0001 (Adobe PDF - 36kb)
Proposal subject:	An act relating to the Legislature; providing an effective date for convening the Legislature.
Proposal type:	Statutory Recommendation
Proposal sponsor:	Commissioner Les Miller
Committee of reference:	Governmental Procedures & Structure

	Committee
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Proposal:	RLE Replacement/Sales Tax
Proposal number:	CP0002 (Adobe PDF - 208kb)
Staff Analysis:	CP0002 Staff Analysis
Proposal subject:	A resolution proposing the creation of new sections of the State Constitution to mandate the repeal of exemptions and exclusions from sales tax and to use those new sources of revenue to replace revenues from ad valorem taxation to fund education.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Commissioner John McKay, Commissioner Darryl Rouson, Commissioner Les Miller
Committee of reference:	Governmental Procedures and Structure Committee, Finance & Taxation Committee
Action by Committee(s) of Reference:	Reported favorably as amended out of Governmental Procedures & Structure Committee and the Finance & Taxation Committee
Committee Substitute(s)	CP2C1 (Adobe PDF - 28kb)

Proposal:	Legislative Session Start Date
Proposal number:	CP0003 (Adobe PDF - 140kb)
Staff Analysis:	CP0003 Staff Analysis
Proposal subject:	A resolution proposing an amendment to Section 3 of Article III of the State Constitution to change the commencement dates of

	regular session of the Legislature to the second Tuesday in January from commencement dates in March and permits the Legislature to establish alternative commencement dates by law.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Commissioner Les Miller
Committee of reference:	Planning & Budgetary Processes Committee, Governmental Procedures & Structure Committee
Action by Committee(s) of Reference:	Reported Favorably out of Planning & Budgetary Processes Committee and the Governmental Procedures & Structure Committee, Failed at the Taxation & Budget Reform Commission
Committee Substitute(s)	CP3C1 (Adobe PDF - 204kb)

Proposal:	Residential Property Assessment/Storm Hardening or Renewable Energy Devices
Proposal number:	CP0004 (Adobe PDF - 220kb)
Staff Analysis:	CP0004 Staff Analysis
Proposal subject:	A resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State constitution, to limit certain increases in the assessed value of real property used for residential purposes and to provide an effective date if such amendment is adopted.
Proposal type:	Constitutional Proposal

Proposal sponsor:	Commissioner Gwen Margolis
Committee of reference:	Governmental Procedures & Structure Committee, Finance & Taxation Committee, Style & Drafting Committee
Action by Committee(s) of Reference:	Reported favorably out of the Governmental Procedures & Structure Committee and the Finance and Taxation Committee with a technical amendment. Favorable as amended by Taxation & Budget Reform Commission, now in Style & Drafting Committee.
Committee Substitute(s)	CP4C1 (Adobe PDF - 485kb)

Proposal:	Residential Property Assessment/Storm Hardening or Renewable Energy Devices
Proposal number:	SR0005 (Adobe PDF - 80kb)
Staff Analysis:	SR0005 Staff Analysis
Proposal subject:	An act relating to the assessment of residential property; creating s. 193.624, F.S.; prohibiting an increase in the assessed value of residential property solely as the result of installing and operating a renewable energy source device or improving the property's resistance to wind damage; providing a contingent effective date.
Proposal type:	Statutory Recommendation
Proposal sponsor:	Commissioner Gwen Margolis
Committee of reference:	Governmental Procedures & Structure Committee, Finance & Taxation Committee, Style &

	Drafting Committee
Action by Committee(s) of Reference:	Reported favorably out of the Governmental Procedures & Structure Committee and the Finance and Taxation Committee. Favorable by Taxation & Budget Reform Commission, now in Style & Drafting Committee.
Committee Substitute(s)	SR5C1 (Adobe PDF - 199kb)

Proposal:	Working Waterfront Assessments
Proposal number:	CP0006 (Adobe PDF - 244kb)
Staff Analysis:	CP0006 Staff Analysis
Proposal subject:	A resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to provide for the assessment of land used for commercial fishing and other water related purposes.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Commissioner Kenneth Wilkinson
Committee of reference:	Finance & Tax Committee
Action by Committee(s) of Reference:	Reported Favorably out of the Finance and Taxation Committee
Committee Substitute	Committee Substitute for CP0006, CP008 and CP0034 (Adobe PDF - 485kb)

Proposal:	Sales Tax Exemptions/Review
Proposal number:	CP0007 (Adobe PDF - 212kb)

Staff Analysis:	CP0007 Staff Analysis
Committee Substitute(s)	CP7C1 (Adobe PDF - 16kb)
Committee Substitute Staff Analysis	CS/CP0007 Staff Analysis (Adobe PDF - 184kb)
Proposal subject:	A resolution proposing the creation of a new section in Article VII of the State Constitution to require the Legislature to review certain exemptions from the tax on sales, use, and other transactions and to vote on whether to retain exemptions.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Finance & Tax Committee
Committee of reference:	Finance & Tax Committee, Governmental Procedures & Structure Committee
Action by Committee(s) of Reference:	Reported Favorably as amended out of the Finance & Taxation Committee and the Governmental Procedures & Structure Committee.

Proposal:	Working Waterfront Assessments
Proposal number:	CP0008 (Adobe PDF - 264kb)
Staff Analysis:	CP0008 Staff Analysis
Proposal subject:	A resolution proposing an amendment to Section 4 of Article VII and the creation of a new section in Article XII of the State Constitution to provide for the assessment of working waterfront properties based upon current use, rather than highest and best use.

Proposal type:	Constitutional Proposal
Proposal sponsor:	Commissioner Jim Scott
Committee of reference:	Finance & Tax Committee
Action by Committee(s) of Reference:	Reported Favorably out of the Finance & Taxation Committee
Committee Substitute(s)	Committee Substitute for CP0006, CP008 and CP0034 (Adobe PDF - 485kb)

Proposal:	Nonrecurring Revenues for Recurring Expenditures
Proposal number:	CP0009 (Adobe PDF - 44kb)
Proposal subject:	A resolution proposing an amendment to the State Constitution to revise the authority of the Legislature to use nonrecurring revenues for recurring expenditures.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Commissioner Jim Scott
Committee of reference:	Finance & Taxation Committee, Planning & Budgetary Processes Committee

Proposal:	Collective Bargaining for Public Employees
Proposal number:	CP0010 (Adobe PDF - 84kb)
Proposal subject:	A resolution proposing the creation of a new Section 20 of Article III of the State Constitution to prohibit the enactment of laws affecting or impacting issues that are a mandatory subject of collective bargaining for public employees.
Proposal type:	Constitutional Proposal
Proposal sponsor:	Governmental Procedures & Structure Committee
Committee of reference:	Governmental Procedures & Structure Committee, Planning & Budgetary Processes

	Committee
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Website design and maintenance:
[FSU Academic & Professional Program Services](#)

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Legislative Update

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**EVERGLADES
PROTECTION
MARCH 4, 2008
LEGISLATION**

Department of Community Affairs
Legislative Proposal
EVERGLADES PROTECTION
3-4-08

1 **163.3177(6)(d) Conservation Element.—**
2

3 By December 31, 2009, local governments lying in whole or in part, within or adjacent to the
4 Everglades Protection Area as described in s. 373.4592, or within the Lake Okeechobee
5 watershed, the Caloosahatchee River watershed or the St. Lucie River watershed as those areas
6 are described in s. 373.4595, or within the Kissimmee River basin watershed shall amend their
7 comprehensive plans to adopt goals, objectives and policies that further the restoration and
8 protection of the Everglades ecosystem. These amendments must be supported by an analysis of
9 consistency with the Everglades Forever Act (s. 373.4592), the Northern Everglades and
10 Estuaries Protection Program (s. 373.4595), and the Comprehensive Everglades Restoration Plan
11 as defined in 373.470(2)(b).
12

**AFFORDABLE
HOUSING
MARCH 6, 2008
LEGISLATION**

1 **Section 1.** Section 163.3183, Florida Statutes, is created to read:

2
3 163.32461 Affordable Housing Growth Strategies. –

4 (1) LEGISLATIVE INTENT. The Legislature recognizes the acute need to increase
5 the availability of affordable housing in the State consistent with this Act, the State
6 Comprehensive plan, and the State Housing Strategy Act. The Legislature also
7 recognizes that construction costs increase as the result of regulatory delays in approving
8 the development of affordable housing. The Legislature further recognizes that the State’s
9 growth management laws can be amended in a manner to encourage the development of
10 affordable housing. Therefore, it is the intent of the Legislature that state review of
11 comprehensive plan amendments and local government review of development proposals
12 that will provide for affordable housing be streamlined and expedited.

13 (2) DEFINITIONS. For purposes of this section, the term:

14 (a) “Density bonus” means an increase in the number of on-site, market-rate units to
15 provide an incentive for the construction of affordable housing.

16 (b) “Development” has the same meaning as in 380.04.

17 (c) “Long-term affordable housing unit” means housing affordable to natural persons
18 or families whose total annual household income does not exceed 120 percent of the area
19 median income adjusted for household size or, if located in a county in which the median
20 purchase price for a single-family existing home exceeds the statewide median purchase
21 price of a single-family existing home, does not exceed 140 percent of the area median
22 income adjusted for family size. The unit shall be subject to a rental, deed, or other
23 restriction to ensure it meets the income limits in this paragraph for at least 30 years.

24 (3) EXPEDITED REVIEW OF FUTURE LAND USE MAP AMENDMENTS IN
25 COUNTIES WITH A POPULATION GREATER THAN 75,000 AND
26 MUNICIPALITIES WITHIN THOSE COUNTIES. In counties with a population greater
27 than 75,000 and municipalities within those counties, a future land use map amendment
28 for a proposed residential development or mixed-use development requiring that at least
29 15 percent of the residential units are long-term affordable housing units shall be subject
30 to the alternative state review process in s. 163.32465(3)-(6). Any special area plan

31 policies or map notations directly related to the map amendment may be adopted at the
32 same time and in the same manner as the map amendment.

33 (4) OPTIONAL EXPEDITED REVIEW OF FUTURE LAND USE MAP
34 AMENDMENTS IN COUNTIES WITH A POPULATION LESS THAN 75,000. In a
35 county with a population less than 75,000, a future land use map amendment for a
36 proposed residential development or mixed-use development shall be subject to the
37 alternative state review process in s. 163.32465(3)-(6) if:

38 (a) The development is located in an area identified as appropriate for affordable
39 housing in an adopted rural sub-element that meets the requirements of s. 163.3177(6)(a);
40 and

41 (b) The amendment requires that at least 15 percent of the residential units are
42 long-term affordable housing units.

43 Any special area plan policies or map notations directly related to the map amendment
44 may be adopted at the same time and in the same manner as the map amendment.

45 The state land planning agency shall provide funding, contingent upon a legislative
46 appropriation, to counties that undertake the process of preparing a rural sub-element that
47 satisfies the requirements of s. 163.3177(6)(a).

48 (5) UNIFIED APPLICATION AND EXPEDITED REVIEW. Each local government
49 shall by July 1, 2009, establish a process for the unified and expedited review of an
50 application for development approval for a residential development or mixed-use
51 development in which at least 15 percent of the residential units are long-term affordable
52 housing units. The process shall combine plan amendment and rezoning approval at the
53 local level and shall include, at a minimum, a:

54 (a) UNIFIED APPLICATION: Each local government shall provide for a unified
55 application for all comprehensive plan amendment(s) and rezoning(s) related to a
56 residential development or mixed-use development in which at least 15 percent of the
57 residential units are long-term affordable housing units. Local governments are
58 encouraged to adopt requirements for a pre-application conference with an applicant to
59 coordinate the completion and submission of the application. Local governments are also
60 encouraged to assign the coordination of review of a unified application to one employee.

61 (b) PROCEDURES FOR EXPEDITED REVIEW. Each local government shall adopt
62 procedures that require an expedited review of a unified application. At a minimum, these
63 procedures shall ensure that:

64 1. Within 10 days after receiving a unified application, the local government provides
65 written notification to an applicant stating the application is complete or requests in
66 writing any specific information needed to complete the application.

67 2. The local planning agency shall hold its hearing on a unified application and the
68 governing body of the local government shall hold its first public hearing on whether to
69 transmit the comprehensive plan amendment portion of a unified application under s.
70 163.32465(4)(a) within 45 days after the application is determined to be complete.

71 3. For plan amendments that have been transmitted to the state land planning agency
72 under subparagraph 2., the governing body of a local government shall hold its second
73 public hearing on whether to adopt the comprehensive plan amendment simultaneously
74 with a hearing on any necessary rezoning ordinance no later than 30 days after the
75 expiration of the 30-day period allowed for receipt of agency comments under s.
76 163.32465(4)(b).

77 (c) EXCEPTIONS. This subsection does not apply to development within a rural land
78 stewardship area, optional sector plan, coastal high hazard area, an area of critical state
79 concern, or on lands identified as environmentally sensitive in the local comprehensive
80 plan.

81 (6) EXPEDITED SUBDIVISIONS, SITE PLANS, AND BUILDING PERMITS.
82 Each local government shall adopt procedures to ensure that applications for subdivision,
83 site plan approval, and building permits for a development in which 15 percent of the
84 units are long-term affordable housing units are approved, approved with conditions, or
85 denied within a specified number of days that is 50 percent of the average number of days
86 the local government normally takes to process such application.

87 (7) REQUIRED DENSITY BONUSES IF LAND IS DONATED FOR
88 AFFORDABLE HOUSING. Each local government shall amend its comprehensive plan
89 by July 1, 2009, to provide a 15-percent density bonus if land is donated for the
90 development of affordable housing. The comprehensive plan shall establish a minimum
91 number of acres that must be donated in order to receive the density bonus.

92 (a) DENSITY BONUS. The density bonus:
93 1. Shall be a 15 percent increase above the allowable number of residential units and shall
94 apply to land identified by the developer and approved by the local government;
95 2. May be used only on land within an area designated as an urban service area in the
96 local comprehensive plan; and
97 3. May not be used on land within a coastal high hazard area, an area of critical state
98 concern, or on lands identified as environmentally sensitive in the local comprehensive
99 plan.

100 (b) DONATED LAND. The land donated for affordable housing does not have to be
101 collocated with the land receiving the density bonus, but both parcels must be located
102 within the local government's jurisdiction for the density bonus to apply. The donated
103 land must be suitable for development as housing and must be conveyed to the local
104 government in fee simple. The local government may transfer all or a portion of the
105 donated land to a nonprofit organization, such as a community land trust, housing
106 authority, or community redevelopment agency, to be used for the development and
107 preservation of permanently affordable housing in a project in which at least 30 percent
108 of the residential units are affordable.

109 (8) REQUIRED DENSITY BONUS FOR AFFORDABLE HOUSING NEAR
110 EMPLOYMENT CENTERS. Each local government shall amend its comprehensive plan
111 by July 1, 2009, to provide a 15-percent density bonus above the allowable number of
112 residential units for a residential development or a mixed-use development that is located
113 within 2 miles of an existing employment center or an employment center that has
114 received site plan approval. At least 15 percent of any residential units allowed under the
115 density bonus shall be long-term affordable housing units.

116 (a) DENSITY BONUS. The density bonus:
117 1. May be used only on land within an area designated as an urban service area in the
118 local comprehensive plan; and
119 2. May not be used on land within a coastal high hazard area, an area of critical state
120 concern, or on lands identified as environmentally sensitive in the local comprehensive
121 plan.

122 (b) DEFINITION. For purposes of this subsection, the term “employment center”
123 means a place of employment, or multiple places of employment that are contiguously
124 located, that employ(s) 100 or more full-time employees and is located within an urban
125 service area, approved sector plan, or an area designated as a rural area of critical
126 economic concern under s. 288.0656.

127 (9) CALCULATION OF AFFORDABLE UNITS. When calculating the number of
128 long-term affordable housing units under this section, a fraction of 0.5 or more shall be
129 rounded up to the next whole number and a fraction of less than 0.5 shall be rounded
130 down to the next lower whole number.

131 (10) PENALTY. Failure to comply with the provisions of this section shall result in a
132 local government being ineligible to receive any state funding for affordable housing
133 until the local government is in compliance.

134
135 **Section 2.** Paragraph (f) of subsection (6) of s. 163.3177, F.S., is amended to read:

136 163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

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

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

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

142 b. The elimination of substandard dwelling conditions.

143 c. The structural and aesthetic improvement of existing housing.

144 d. The provision of adequate sites for future housing, including affordable workforce
145 housing as defined in s. 380.0651(3)(j), housing for low-income, very low-income, and
146 moderate-income families, mobile homes, and group home facilities and foster care
147 facilities, with supporting infrastructure and public facilities. This shall include

148 compliance with the applicable public lands provision under s 163.32431 or s.
149 163.32432.

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

152 f. The formulation of housing implementation programs.

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

156 h. The provision of senior affordable housing with supporting infrastructure and public
157 facilities.

158 i. By July 1, 2008, each county in which the gap between the buying power of a family of
159 four and the median county home sale price exceeds \$170,000, as determined by the
160 Florida Housing Finance Corporation, and which is not designated as an area of critical
161 state concern shall adopt a plan for ensuring affordable workforce housing. At a
162 minimum, the plan shall identify adequate sites for such housing. For purposes of this
163 sub-subparagraph, the term “workforce housing” means housing that is affordable to
164 natural persons or families whose total household income does not exceed 140 percent of
165 the area median income, adjusted for household size.

166 j. ~~i.~~ Failure by a local government to comply with the requirement in sub-subparagraph i.
167 ~~h.~~ shall result in the local government being ineligible to receive any state funding for
168 affordable housing will result in the local government being ineligible to receive any state
169 ~~housing assistance grants~~ until the requirement of sub-subparagraph i. ~~h.~~ is met.

170 The goals, objectives, and policies of the housing element must be based on the data and
171 analysis prepared on housing needs, including the affordable housing needs assessment.
172 State and federal housing plans prepared on behalf of the local government must be
173 consistent with the goals, objectives, and policies of the housing element. Local

174 governments are encouraged to utilize job training, job creation, and economic solutions
175 to address a portion of their affordable housing concerns.

176 2. To assist local governments in housing data collection and analysis and assure
177 uniform and consistent information regarding the state's housing needs, the state land
178 planning agency shall conduct an affordable housing needs assessment for all local
179 jurisdictions on a schedule that coordinates the implementation of the needs assessment
180 with the evaluation and appraisal reports required by s. 163.3191. Each local government
181 shall utilize the data and analysis from the needs assessment as one basis for the housing
182 element of its local comprehensive plan. The agency shall allow a local government the
183 option to perform its own needs assessment, if it uses the methodology established by the
184 agency by rule.

185

186 **Section 3.** Subsection (6) is deleted and subsection (5) of s. 163.31771, F.S., is
187 amended to read:

188 **163.31771** Accessory dwelling units.—

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

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

198 (5) Each accessory dwelling unit allowed by ~~an ordinance adopted under this section~~ the
199 comprehensive plan shall apply toward satisfying the affordable housing component of
200 the housing element in the local government's comprehensive plan under s.
201 163.3177(6)(f) and, provided such unit is subject to a recorded land use restriction
202 agreement restricting its use to affordable housing, such accessory dwelling unit shall not

203 be treated as a new unit for purposes of transportation concurrency or impact fees.
204 Accessory dwelling units may not be located on land within a coastal high hazard area,
205 and area of critical state concern, or on lands identified as environmentally sensitive in
206 the local comprehensive plan.

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

212 **Section 4.** Section 125.379, F.S., is renumbered as s. 163.32431, F.S., and subsection
213 (3) is added to s. 163.32431, F.S., to read:

214 163.32431 Disposition of county property for affordable housing.--

215 (1) By July 1, 2007, and every 3 years thereafter, each county shall prepare an inventory
216 list of all real property within its jurisdiction to which the county holds fee simple title
217 that is appropriate for use as affordable housing. The inventory list must include the
218 address and legal description of each such real property and specify whether the property
219 is vacant or improved. The governing body of the county must review the inventory list at
220 a public hearing and may revise it at the conclusion of the public hearing. The governing
221 body of the county shall adopt a resolution that includes an inventory list of such property
222 following the public hearing.

223 (2) The properties identified as appropriate for use as affordable housing on the
224 inventory list adopted by the county may be offered for sale and the proceeds used to
225 purchase land for the development of affordable housing or to increase the local
226 government fund earmarked for affordable housing, or may be sold with a restriction that
227 requires the development of the property as permanent affordable housing, or may be
228 donated to a nonprofit housing organization for the construction of permanent affordable
229 housing. Alternatively, the county may otherwise make the property available for use for
230 the production and preservation of permanent affordable housing. For purposes of this
231 section, the term "affordable" has the same meaning as in s. 420.0004(3).

232 (3) A county that fails to complete the inventory in accordance with the provisions of this
233 section shall be ineligible to receive any state funding for affordable housing until the
234 inventory or update is completed. The determination by an agency or entity that the
235 inventory has been completed in order to release state funds for affordable housing is a
236 ministerial act.

237

238 **Section 5.** Section 166.0451, F.S., is renumbered as s. 163.32432, F.S., and
239 subsection (3) is added to s. 163.32432, F.S., to read:

240 163.32432 Disposition of municipal property for affordable housing.--

241 (1) By July 1, 2007, and every 3 years thereafter, each municipality shall prepare an
242 inventory list of all real property within its jurisdiction to which the municipality holds
243 fee simple title that is appropriate for use as affordable housing. The inventory list must
244 include the address and legal description of each such property and specify whether the
245 property is vacant or improved. The governing body of the municipality must review the
246 inventory list at a public hearing and may revise it at the conclusion of the public hearing.
247 Following the public hearing, the governing body of the municipality shall adopt a
248 resolution that includes an inventory list of such property.

249 (2) The properties identified as appropriate for use as affordable housing on the
250 inventory list adopted by the municipality may be offered for sale and the proceeds may
251 be used to purchase land for the development of affordable housing or to increase the
252 local government fund earmarked for affordable housing, or may be sold with a
253 restriction that requires the development of the property as permanent affordable housing,
254 or may be donated to a nonprofit housing organization for the construction of permanent
255 affordable housing. Alternatively, the municipality may otherwise make the property
256 available for use for the production and preservation of permanent affordable housing.
257 For purposes of this section, the term "affordable" has the same meaning as in s.
258 420.0004(3).

259 (3) A municipality that fails to complete the inventory in accordance with the provisions
260 of this section shall be ineligible to receive any state funding for affordable housing until
261 the inventory or update is completed. The determination by an agency or entity that the

262 inventory has been completed in order to release state funds for affordable housing is a
263 ministerial act.

264 **Section 6.** Section 193.017, Florida Statutes, is amended to read:

265 (Substantial rewording of section. See s. 193.017, F.S., for present text.)

266 193.017 Assessment of structural improvements on land owned by a community land
267 trust used to provide affordable housing.

268 (1) As used in this section, the term "community land trust" means a nonprofit entity that
269 is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and has as one
270 of its purposes the acquisition of land to be held in perpetuity for the primary purpose of
271 providing affordable homeownership.

272 (2) A community land trust may convey structural improvements located on specific
273 parcels of land to provide affordable housing, which are identified by a legal description
274 contained in and subject to a ground lease having a term of at least 99 years, to natural
275 persons or families who meet the extremely-low, very-low, low, and moderate income
276 limits specified in s. 420.0004, or the income limits for workforce housing, as defined in
277 s. 420.5095(3). A community land trust shall retain a preemptive option to purchase any
278 structural improvements on the land at a price determined by a formula specified in the
279 ground lease which is designed to ensure that the structural improvements remain
280 affordable.

281 (3) In arriving at just valuation under s. 193.011, a structural improvement that provides
282 affordable housing on land owned by a community land trust and subject to a 99-year or
283 longer ground lease shall be assessed using the following criteria:

284 (a) The amount a willing purchaser would pay a willing seller is limited to the amount
285 determined by the formula in the ground lease.

286 (b) If the ground lease and all amendments and supplements thereto, or a memorandum
287 documenting how such lease and amendments or supplements restrict the price at which

288 the improvements may be sold, is recorded in the official public records of the county in
289 which the leased land is located, the recorded lease and any amendments and
290 supplements, or the recorded memorandum, shall be deemed a land use regulation during
291 the term of the lease as amended or supplemented.

292 **Section 7.** Section 420.615, Florida Statutes, is repealed.

293 **Section 8.** This act shall take effect July 1, 2008.

DRAFT

**ALTERNATIVE
STATE REVIEW
MARCH 4, 2008
LEGISLATION**

Department of Community Affairs
Legislative Proposal
ALTERNATIVE STATE REVIEW PROCESS
3-4-08

1 **163.32465 State review of local comprehensive plans in urban areas.--**

2 (1) LEGISLATIVE FINDINGS.--

3 (a) The Legislature finds that local governments in this state have a wide diversity of resources,
4 conditions, abilities, and needs. The Legislature also finds that the needs and resources of urban
5 areas are different from those of rural areas and that different planning and growth management
6 approaches, strategies, and techniques are required in urban areas. The state role in overseeing
7 growth management should reflect this diversity and should vary based on local government
8 conditions, capabilities, needs, and the extent and type of development. Thus, the Legislature
9 recognizes and finds that reduced state oversight of local comprehensive planning is justified for
10 some local governments in urban areas and for certain types of development.

11 (b) The Legislature finds and declares that this state's urban areas require a reduced level of state
12 oversight because of their high degree of urbanization and the planning capabilities and
13 resources of many of their local governments. An alternative state review process that is
14 adequate to protect issues of regional or statewide importance should be created for appropriate
15 local governments in these areas and for certain types of development. Further, the Legislature
16 finds that development, including urban infill and redevelopment, should be encouraged in these
17 urban areas. The Legislature finds that an alternative process for amending local comprehensive
18 plans in these areas should be established with an objective of streamlining the process and
19 recognizing local responsibility and accountability.

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

24 (2) ALTERNATIVE STATE REVIEW PROCESS PILOT PROGRAM.--Pinellas and Broward
25 Counties, and the municipalities within these counties, and Jacksonville, Miami, Tampa, and
26 Hialeah shall follow an alternative state review process provided in this section. Municipalities
27 within the pilot counties may elect, by super majority vote of the governing body, not to
28 participate in the pilot program. In addition, the alternative state review process shall apply to:

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29 (a) Future land use map amendments and associated special area policies within areas designated
30 in a comprehensive plan for urban infill development pursuant to s. 163.3164(25), urban
31 redevelopment pursuant to s. 163.3164(26), downtown revitalization pursuant to s.
32 163.3164(27), urban infill and redevelopment pursuant to s. 163.2517, or an urban service area
33 pursuant to s. 163.3180(5)(b)5;

34 (b) Affordable housing amendments that qualify under s. 163.32461; and

35 (c) Future land use map amendments within an area designated by the Governor as a rural area of
36 critical economic concern under s. 288.0656(7) for the duration of such designation. Prior to the
37 adoption of such an amendment, the local government shall obtain from the Office of Tourism,
38 Trade, and Economic Development written certification that the plan amendment furthers the
39 economic objectives set forth in the executive order issued under s. 288.0656(7).

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

42 (a) Plan amendments adopted by the pilot program jurisdictions shall follow the alternate,
43 expedited process in subsections (4) and (5), except as set forth in paragraphs (b)-(f) of this
44 subsection.

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

47 (c) Plan amendments that propose a rural land stewardship area pursuant to s. 163.3177(11)(d);
48 propose an optional sector plan; update a comprehensive plan based on an evaluation and
49 appraisal report; implement ~~new~~ statutory requirements not previously incorporated into a
50 comprehensive plan; or new plans for newly incorporated municipalities are subject to state
51 review as set forth in s. 163.3184.

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

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

57 (f) All amendments adopted under this section must comply with ss. 163.3184(3)(a) and
58 163.3184(15)(b)2.

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

61 (a) The local government shall hold its first public hearing on a comprehensive plan amendment
62 on a weekday at least 7 days after the day the first advertisement is published pursuant to the
63 requirements of chapter 125 or chapter 166. Upon an affirmative vote of not less than a majority
64 of the members of the governing body present at the hearing, the local government shall
65 immediately transmit the amendment or amendments and appropriate supporting data and
66 analyses to the state land planning agency; the appropriate regional planning council and water
67 management district; the Department of Environmental Protection; the Department of State; the
68 Department of Transportation; in the case of municipal plans, to the appropriate county; the Fish
69 and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services;
70 and in the case of amendments that include or impact the public school facilities element, the
71 Office of Educational Facilities of the Commissioner of Education. The local governing body
72 shall also transmit a copy of the amendments and supporting data and analyses to any other local
73 government or governmental agency that has filed a written request with the governing body.

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

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85 amendments on the municipal plan. State agency comments may include technical guidance on
86 issues of agency jurisdiction as it relates to the requirements of this part. Such comments shall
87 clearly identify issues that, if not resolved, may result in an agency challenge to the plan
88 amendment. For the purposes of this pilot program, agencies are encouraged to focus potential
89 challenges on issues of regional or statewide importance. Agencies and local governments must
90 transmit their comments to the affected local government such that they are issued received by
91 ~~the local government~~ not later than thirty days from the date on which the state land planning
92 agency notifies the affected local government that the plan amendment package is complete
93 agency or government received the amendment or amendments. Any comments from the
94 agencies and local governments shall also be transmitted to the state land planning agency.

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

96 (a) The local government shall hold its second public hearing, which shall be a hearing on
97 whether to adopt one or more comprehensive plan amendments, on a weekday at least 5 days
98 after the day the second advertisement is published pursuant to the requirements of chapter 125
99 or chapter 166. Adoption of comprehensive plan amendments must be by ordinance ~~and requires~~
100 ~~an affirmative vote of a majority of the members of the governing body present at the second~~
101 ~~hearing. This hearing must be conducted and the amendment(s) adopted not later than 120 days~~
102 ~~after receipt of the agency comments pursuant to s. 163.3246(4)(b). If a local government fails~~
103 ~~to adopt the plan amendment within the timeframe set forth in this subsection, the plan~~
104 ~~amendment shall be deemed abandoned and the plan amendment may not be considered until the~~
105 ~~next available amendment cycle pursuant to s. 163.3187.~~

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

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

112 (a) Any "affected person" as defined in s. 163.3184(1)(a) may file a petition with the Division of
113 Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected

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114 local government, to request a formal hearing to challenge whether the amendments are "in
115 compliance" as defined in s. 163.3184(1)(b). This petition must be filed with the Division within
116 30 days after the local government adopts the amendment. The state land planning agency may
117 intervene in a proceeding instituted by an affected person.

118 (b) The state land planning agency may file a petition with the Division of Administrative
119 Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local
120 government, to request a formal hearing. This petition must be filed with the Division within 30
121 days after the state land planning agency notifies the local government that the plan amendment
122 package is complete. For purposes of this section, an amendment shall be deemed complete if it
123 contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text
124 amendment, a full copy of the amended language in legislative format with new words inserted
125 in the text underlined, and words to be deleted lined through with hyphens; in the case of a future
126 land use map amendment, a copy of the future land use map clearly depicting the parcel, its
127 existing future land use designation, and its adopted designation; and a copy of any data and
128 analyses the local government deems appropriate. The state land planning agency shall notify the
129 local government of any deficiencies within 5 working days of receipt of an amendment
130 package.

131 (c) The state land planning agency's challenge shall be limited to those issues raised in the
132 comments provided by the reviewing agencies pursuant to paragraph (4)(b). The state land
133 planning agency may challenge a plan amendment that has substantially changed from the
134 version on which the agencies provided comments. For the purposes of this pilot program, the
135 Legislature strongly encourages the state land planning agency to focus any challenge on issues
136 of regional or statewide importance.

137 (d) An administrative law judge shall hold a hearing in the affected local jurisdiction. The local
138 government's determination that the amendment is "in compliance" is presumed to be correct and
139 shall be sustained unless it is shown by a preponderance of the evidence that the amendment is
140 not "in compliance."

141 (e) If the administrative law judge recommends that the amendment be found not in compliance,
142 the judge shall submit the recommended order to the Administration Commission for final

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143 agency action. The Administration Commission shall enter a final order within 45 days after its
144 receipt of the recommended order.

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

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

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

155 (g) An amendment adopted under the expedited provisions of this section shall not become
156 effective until completion of the time period available to the state land planning agency for
157 administrative challenge under s. 163.32465(6)(a) of the 31 days after adoption. If timely
158 challenged, an amendment shall not become effective until the state land planning agency or the
159 Administration Commission enters a final order determining the adopted amendment to be in
160 compliance.

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

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

167 (8) RULEMAKING AUTHORITY FOR PILOT PROGRAM.—The state land planning agency
168 shall ~~Agencies shall not~~ promulgate procedural rules to implement this pilot program.

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

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

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

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

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

194
195

**CITIZEN'S
PLANNING BILL
OF RIGHTS
MARCH 4, 2008
LEGISLATION**

Department of Community Affairs
Legislative Proposal
CITIZEN'S PLANNING BILL OF RIGHTS
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1 **163.3174 Local planning agency.--**

2 (1) The governing body of each local government, individually or in combination as provided in s.
3 163.3171, shall designate and by ordinance establish a "local planning agency," unless the agency is
4 otherwise established by law. Notwithstanding any special act to the contrary, all local planning
5 agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in
6 each municipality and county shall include a representative of the school district appointed by the
7 school board as a nonvoting member of the local planning agency or equivalent agency to attend
8 those meetings at which the agency considers comprehensive plan amendments and rezonings that
9 would, if approved, increase residential density on the property that is the subject of the application.
10 However, this subsection does not prevent the governing body of the local government from
11 granting voting status to the school board member. Members of governing body may not serve on
12 ~~The governing body may designate itself as the local planning agency pursuant to this subsection.~~
13 ~~with the addition of a nonvoting school board representative.~~ The governing body shall notify the
14 state land planning agency of the establishment of its local planning agency. All local planning
15 agencies shall provide opportunities for involvement by applicable community college boards,
16 which may be accomplished by formal representation, membership on technical advisory
17 committees, or other appropriate means. The local planning agency shall prepare the comprehensive
18 plan or plan amendment after hearings to be held after public notice and shall make
19 recommendations to the governing body regarding the adoption or amendment of the plan. The
20 agency may be a local planning commission, the planning department of the local government, or
21 other instrumentality, including a countywide planning entity established by special act or a council
22 of local government officials created pursuant to s. 163.02, provided the composition of the council
23 is fairly representative of all the governing bodies in the county or planning area; however:

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

26 (a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and
27 shall make recommendations to the governing body regarding the adoption or amendment of such
28 plan. During the preparation of the plan or plan amendment and prior to any recommendation to the
29 governing body, the local planning agency shall hold at least one public hearing, with public notice,
30 on the proposed plan or plan amendment. The governing body in cooperation with the local planning

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31 agency may designate any agency, committee, department, or person to prepare the comprehensive
32 plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment
33 to the governing body shall be the responsibility of the local planning agency.

34
35 **163.3181 Public participation in the comprehensive planning process; intent; alternative**
36 **dispute resolution.—**

37 (1) It is the intent of the Legislature that the public participate in the comprehensive planning
38 process to the fullest extent possible. Towards this end, local planning agencies and local
39 governmental units are directed to adopt procedures designed to provide effective public
40 participation in the comprehensive planning process and to provide real property owners with
41 notice of all official actions which will regulate the use of their property. Each local government
42 shall adopt by ordinance requirements for the holding of a community or neighborhood meeting
43 prior to the filing of applications for future land use map amendments consistent with the
44 provisions of s. 163.3184(3). The provisions and procedures required in this act are set out as
45 the minimum requirements towards this end.

46 **163.3184 Process for adoption of comprehensive plan or plan amendment.--**

47 (1) (a) "Affected person" includes the affected local government; persons owning property,
48 residing, or owning or operating a business within the boundaries of the local government whose
49 plan is the subject of the review; owners of real property abutting real property that is the subject
50 of a proposed change to a future land use map; and adjoining local governments that can
51 demonstrate that the plan or plan amendment will produce substantial impacts on the increased
52 need for publicly funded infrastructure or substantial impacts on areas designated for protection
53 or special treatment within their jurisdiction. Each person, other than an adjoining local
54 government, in order to qualify under this definition, shall also have submitted oral or written
55 comments, recommendations, or objections to the local government during the period of time
56 beginning with the transmittal hearing for the plan or plan amendment and ending with the
57 adoption of the plan or plan amendment.

58
59 (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR AMENDMENT.--

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60 (a) Prior to the filing of an application for an amendment to the future land use map, the applicant
61 shall conduct a noticed community or neighborhood meeting to present, discuss and solicit public
62 comment on the proposed map amendment. The meeting shall be noticed and conducted by the
63 applicant in accordance with the local government's adopted regulations for such meetings and shall
64 be held at least 30 calendar days before the filing of the application for the amendment. The
65 application shall contain a written certification or verification that the meeting has been held and that
66 the required notice was given. At least 15 calendar days before the local governing body holds an
67 adoption hearing on a map amendment, the applicant shall conduct a second noticed community or
68 neighborhood meeting to present and discuss the map amendment application as filed, including any
69 changes made to the proposed amendment following the first community or neighborhood meeting
70 and any additional proposed changes. Prior to the adoption hearing, the applicant shall file with the
71 local government a written certification or verification that the second meeting has been held and
72 noticed in accordance with the local government's adopted regulations for such meetings. This
73 section shall be applicable to every application for a map amendment filed after January 1, 2009.

74 (bc) A local governing body shall not transmit portions of a plan or plan amendment unless it has
75 previously provided to all state agencies designated by the state land planning agency a complete
76 copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the agency's
77 procedural rules. In the case of comprehensive plan amendments, the local governing body shall
78 transmit to the state land planning agency, the appropriate regional planning council and water
79 management district, the Department of Environmental Protection, the Department of State, and the
80 Department of Transportation, and, in the case of municipal plans, to the appropriate county and, in
81 the case of county plans, to the Fish and Wildlife Conservation Commission and the Department of
82 Agriculture and Consumer Services the materials specified in the state land planning agency's
83 procedural rules and, in cases in which the plan amendment is a result of an evaluation and appraisal
84 report adopted pursuant to s. 163.3191, a copy of the evaluation and appraisal report. Local
85 governing bodies shall consolidate all proposed plan amendments into a single submission for each
86 of the ~~two~~ plan amendment adoption dates during the calendar year pursuant to s. 163.3187.

87
88 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR
89 AMENDMENTS AND TRANSMITTAL.--

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90 (a) The local government shall review the written comments submitted to it by the state land
91 planning agency, and any other person, agency, or government. Any comments, recommendations,
92 or objections and any reply to them shall be public documents, a part of the permanent record in the
93 matter, and admissible in any proceeding in which the comprehensive plan or plan amendment may
94 be at issue. The local government, upon receipt of written comments from the state land planning
95 agency, shall have 120 days to adopt or adopt with changes the proposed comprehensive plan or s.
96 ~~163.3191~~ plan amendments. ~~In the case of comprehensive plan amendments other than those~~
97 ~~proposed pursuant to s. 163.3191, the local government shall have 60 days to adopt the amendment,~~
98 ~~adopt the amendment with changes, or determine that it will not adopt the amendment.~~ The adoption
99 of the proposed plan or plan amendment or the determination not to adopt a plan amendment, other
100 than a plan amendment proposed pursuant to s. 163.3191, shall be made in the course of a public
101 hearing pursuant to subsection (15). If a local government fails to adopt the comprehensive plan or
102 plan amendment within the timeframe set forth in this subsection, the plan or plan amendment shall
103 be deemed abandoned and the plan or plan amendment may not be considered until the next
104 available amendment cycle pursuant to ss. 163.3184 and 163.3187. The local government shall
105 transmit the complete adopted comprehensive plan or plan amendment, including the names and
106 addresses of persons compiled pursuant to paragraph (15)(c), to the state land planning agency as
107 specified in the agency's procedural rules within 10 working days after adoption. The local
108 governing body shall also transmit a copy of the adopted comprehensive plan or plan amendment to
109 the regional planning agency and to any other unit of local government or governmental agency in
110 the state that has filed a written request with the governing body for a copy of the plan or plan
111 amendment.

112 (15) PUBLIC HEARINGS. –

113 (b) The local governing body shall hold at least two advertised public hearings on the proposed
114 comprehensive plan or plan amendments as follows:

115 1. The first public hearing shall be held at the transmittal stage pursuant to subsection
116 (3). It shall be held on a weekday at least 7 days after the day that the first advertisement was
117 published.

118 2. The second public hearing shall be held at the adoption stage pursuant to subsection
119 (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is

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120 published. Any proposed substantial or material change(s) to the plan or amendment to be
121 considered by the local government, must be filed with the local government and made available to
122 the public at least working 5 days before the hearing, including through the local government's
123 website if one is maintained. The local government shall certify in writing to the Department as part
124 of the adoption package that it has complied with this subsection.

125 **163.3187 Amendment of adopted comprehensive plan.--**

126 (1) Comprehensive plan amendments may be adopted by simple majority vote of the governing
127 body of the local government except as follows:

128 (a) A supermajority vote of the members of the governing body of the local government present
129 at the hearing is required to adopt a future land use map amendment if the local planning agency
130 recommends to the governing body that the amendment not be adopted; and

131 (b) A supermajority vote of the members of the governing body of the local government present at
132 the hearing is required to adopt any text amendment, except for special area policies associated with
133 a future land use map amendment, those text amendments that amend the schedule of capital
134 improvements, implement recommendations in an evaluation and appraisal report, or are required to
135 implement a new statutory requirement.

136 (2) ~~(1)~~ Amendments to comprehensive plans adopted pursuant to this part may be made not more
137 than ~~two times~~ once during any calendar year, except:

138 (a) Local governments may adopt the following comprehensive plan amendments once per calendar
139 year in addition to the once-per-year adoption referenced immediately above:

- 140 1. Future land use map amendments and special area policies associated with those
141 map amendments for land within areas designated in the comprehensive plan for
142 urban infill development pursuant to s. 163.3164(25), urban redevelopment
143 pursuant to s. 163.3164(26), downtown revitalization pursuant to s. 163.3164(27),
144 urban infill and redevelopment pursuant to s. 163.2517, or an urban service area
145 pursuant to s. 163.3180(5)(b)5.

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- 146 2. Any local government comprehensive plan amendment establishing or
147 implementing a rural land stewardship area pursuant to the provisions of s.
148 163.3177(11)(d) or a sector plan pursuant to the provisions of s. 163.3245.

149 (~~b~~a) In the case of an emergency, comprehensive plan amendments may be made more often than
150 once ~~twice~~ during the calendar year if the additional plan amendment receives the approval of all of
151 the members of the governing body. "Emergency" means any occurrence or threat thereof whether
152 accidental or natural, caused by humankind, in war or peace, which results or may result in
153 substantial injury or harm to the population or substantial damage to or loss of property or public
154 funds.

155 (~~c~~b) Any local government comprehensive plan amendments directly related to a proposed
156 development of regional impact, including changes which have been determined to be substantial
157 deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated by a
158 local planning agency and considered by the local governing body at the same time as the
159 application for development approval using the procedures provided for local plan amendment in
160 this section and applicable local ordinances, without regard to statutory or local ordinance limits on
161 the frequency of consideration of amendments to the local comprehensive plan. Nothing in this
162 subsection shall be deemed to require favorable consideration of a plan amendment solely because it
163 is related to a development of regional impact.

164 (~~d~~e) Any local government comprehensive plan amendments directly related to proposed small
165 scale development activities may be approved without regard to statutory limits on the frequency of
166 consideration of amendments to the local comprehensive plan. A small scale development
167 amendment may be adopted only under the following conditions:

168 1. The proposed amendment involves a use of 10 acres or fewer and:

169 a. The cumulative annual effect of the acreage for all small scale development amendments adopted
170 by the local government shall not exceed:

171 (I) A maximum of 120 acres in a local government that contains areas specifically designated in the
172 local comprehensive plan for urban infill, urban redevelopment, or downtown revitalization as
173 defined in s. 163.3164, urban infill and redevelopment areas designated under s. 163.2517,
174 transportation concurrency exception areas approved pursuant to s. 163.3180(5), or regional activity

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175 centers and urban central business districts approved pursuant to s. 380.06(2)(e); however,
176 amendments under this paragraph may be applied to no more than 60 acres annually of property
177 outside the designated areas listed in this sub-sub-subparagraph. Amendments adopted pursuant to
178 paragraph (k) shall not be counted toward the acreage limitations for small scale amendments under
179 this paragraph.

180 (II) A maximum of 80 acres in a local government that does not contain any of the designated areas
181 set forth in sub-sub-subparagraph (I).

182 (III) A maximum of 120 acres in a county established pursuant to s. 9, Art. VIII of the State
183 Constitution.

184 b. The proposed amendment does not involve the same property granted a change within the prior 12
185 months.

186 c. The proposed amendment does not involve the same owner's property within 200 feet of property
187 granted a change within the prior 12 months.

188 d. The proposed amendment does not involve a text change to the goals, policies, and objectives of
189 the local government's comprehensive plan, but only proposes a land use change to the future land
190 use map for a site-specific small scale development activity.

191 e. The property that is the subject of the proposed amendment is not located within an area of critical
192 state concern, unless the project subject to the proposed amendment involves the construction of
193 affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of
194 critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s.
195 380.05(1). Such amendment is not subject to the density limitations of sub-subparagraph f., and shall
196 be reviewed by the state land planning agency for consistency with the principles for guiding
197 development applicable to the area of critical state concern where the amendment is located and
198 shall not become effective until a final order is issued under s. 380.05(6).

199 f. If the proposed amendment involves a residential land use, the residential land use has a density
200 of 10 units or less per acre or the proposed future land use category allows a maximum residential
201 density of the same or less than the maximum residential density allowable under the existing future
202 land use category, except that this limitation does not apply to small scale amendments involving the

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203 construction of affordable housing units meeting the criteria of s. 420.0004(3) on property which
204 will be the subject of a land use restriction agreement, or small scale amendments described in sub-
205 sub-subparagraph a.(I) that are designated in the local comprehensive plan for urban infill, urban
206 redevelopment, or downtown revitalization as defined in s. 163.3164, urban infill and redevelopment
207 areas designated under s. 163.2517, transportation concurrency exception areas approved pursuant to
208 s. 163.3180(5), or regional activity centers and urban central business districts approved pursuant to
209 s. 380.06(2)(e).

210 2.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is
211 not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for
212 such plan amendments if the local government complies with the provisions in s. 125.66(4)(a) for a
213 county or in s. 166.041(3)(c) for a municipality. If a request for a plan amendment under this
214 paragraph is initiated by other than the local government, public notice is required.

215 b. The local government shall send copies of the notice and amendment to the state land planning
216 agency, the regional planning council, and any other person or entity requesting a copy. This
217 information shall also include a statement identifying any property subject to the amendment that is
218 located within a coastal high-hazard area as identified in the local comprehensive plan.

219 3. Small scale development amendments adopted pursuant to this paragraph require only one public
220 hearing before the governing board, which shall be an adoption hearing as described in s.
221 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local
222 government elects to have them subject to those requirements.

223 4. If the small scale development amendment involves a site within an area that is designated by the
224 Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such
225 designation, the 10-acre limit listed in subparagraph 1. shall be increased by 100 percent to 20 acres.
226 The local government approving the small scale plan amendment shall certify to the Office of
227 Tourism, Trade, and Economic Development that the plan amendment furthers the economic
228 objectives set forth in the executive order issued under s. 288.0656(7), and the property subject to
229 the plan amendment shall undergo public review to ensure that all concurrency requirements and
230 federal, state, and local environmental permit requirements are met.

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231 ~~(e)~~ Any comprehensive plan amendment required by a compliance agreement pursuant to s.
232 163.3184(16) may be approved without regard to statutory limits on the frequency of adoption of
233 amendments to the comprehensive plan.

234 ~~(e) A comprehensive plan amendment for location of a state correctional facility. Such an~~
235 ~~amendment may be made at any time and does not count toward the limitation on the frequency of~~
236 ~~plan amendments.~~

237 (f) Any comprehensive plan amendment that changes the schedule in the capital improvements
238 element, and any amendments directly related to the schedule, may be made once in a calendar year
239 on a date different from the one ~~two~~ times provided in this subsection when necessary to coincide
240 with the adoption of the local government's budget and capital improvements program.

241 ~~(g) Any local government comprehensive plan amendments directly related to proposed~~
242 ~~redevelopment of brownfield areas designated under s. 376.80 may be approved without regard to~~
243 ~~statutory limits on the frequency of consideration of amendments to the local comprehensive plan.~~

244 ~~(h)~~ Any comprehensive plan amendments for port transportation facilities and projects that are
245 eligible for funding by the Florida Seaport Transportation and Economic Development Council
246 pursuant to s. 311.07.

247 ~~(i) A comprehensive plan amendment for the purpose of designating an urban infill and~~
248 ~~redevelopment area under s. 163.2517 may be approved without regard to the statutory limits on the~~
249 ~~frequency of amendments to the comprehensive plan.~~

250 ~~(j)~~ Any comprehensive plan amendment to establish public school concurrency pursuant to s.
251 163.3180(13), including, but not limited to, adoption of a public school facilities element pursuant to
252 s. 163.3177(12) and adoption of amendments to the capital improvements element and
253 intergovernmental coordination element. In order to ensure the consistency of local government
254 public school facilities elements within a county, such elements shall be prepared and adopted on a
255 similar time schedule.

256 ~~(k) A local comprehensive plan amendment directly related to providing transportation~~
257 ~~improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the~~
258 ~~Florida Intrastate Highway System, in counties as defined in s. 125.011, where such roadways have~~

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259 a high incidence of traffic accidents resulting in serious injury or death. Any such amendment shall
260 not include any amendment modifying the designation on a comprehensive development plan land
261 use map nor any amendment modifying the allowable densities or intensities of any land.

262 ~~(l) A comprehensive plan amendment to adopt a public educational facilities element pursuant to s.~~
263 ~~163.3177(12) and future land use map amendments for school siting may be approved~~
264 ~~notwithstanding statutory limits on the frequency of adopting plan amendments.~~

265 ~~(m) A comprehensive plan amendment that addresses criteria or compatibility of land uses adjacent~~
266 ~~to or in close proximity to military installations in a local government's future land use element does~~
267 ~~not count toward the limitation on the frequency of the plan amendments.~~

268 ~~(n) Any local government comprehensive plan amendment establishing or implementing a rural~~
269 ~~land stewardship area pursuant to the provisions of s. 163.3177(11)(d).~~

270 ~~(o) A comprehensive plan amendment that is submitted by an area designated by the Governor as a~~
271 ~~rural area of critical economic concern under s. 288.0656(7) and that meets the economic~~
272 ~~development objectives may be approved without regard to the statutory limits on the frequency of~~
273 ~~adoption of amendments to the comprehensive plan.~~

274 ~~(p) Any local government comprehensive plan amendment that is consistent with the local housing~~
275 ~~incentive strategies identified in s. 420.9076 and authorized by the local government.~~

276 (i) Any local government comprehensive plan amendment adopted pursuant to a Final Order
277 issued by the Administration Commission or Florida Land and Water Adjudicatory Commission.

278 (j) A future land use map amendment including not more than 20 acres within an area
279 designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the
280 duration of such designation. Prior to the adoption of such an amendment, the local government shall
281 obtain from the Office of Tourism, Trade, and Economic Development written certification that the
282 plan amendment furthers the economic objectives set forth in the executive order issued under s.
283 288.0656(7). The property subject to the plan amendment is subject to all concurrency requirements
284 and federal, state, and local environmental permit requirements.

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285 (j) Future land use map amendments and any associated special area policies that are for
286 affordable housing and qualify for expedited review under s. 163.32461.

287 (3)(c) Small scale development amendments shall not become effective until 31 days after
288 adoption. If challenged within 30 days after adoption, small scale development amendments
289 shall not become effective until the state land planning agency or the Administration
290 Commission, respectively, issues a final order determining the adopted small scale development
291 amendment is in compliance. However, such an amendment shall not become effective until the
292 state land planning agency has certified to the local government that the amendment qualifies as
293 a small scale development amendment under this subsection. The state land planning agency
294 must provide this certification or the reason(s) why the amendment does not qualify under this
295 subsection to the local government in writing not later than 30 days following receipt of the
296 amendment from the local government pursuant to s. 163.3187(1)(d)2.b.

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**COASTAL HIGH
HAZARD AREA
MARCH 4, 2008
LEGISLATION**

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1 **163.3178 Coastal management.--**

2 (1)(h) Designation of coastal high-hazard areas and the criteria for mitigation for a
3 comprehensive plan amendment in a coastal high-hazard area as defined in subsection (9). The
4 coastal high-hazard area is the area seaward of ~~below~~ the elevation of the category 1 storm surge
5 line as established by a Sea, Lake, and Overland Surges from Hurricanes (SLOSH) computerized
6 storm surge model. It includes all lands within the area, regardless of elevation, from the mean
7 low water line to the inland extent of the category 1 storm surge area. It is depicted by, but not
8 limited to, the areas illustrated in the most current SLOSH Storm Surge Atlas. Application of
9 mitigation and the application of development and redevelopment policies, pursuant to s.
10 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

11 (9)(a) Local governments may elect to comply with rule 9J-5.012(3)(b)6. and 7., Florida
12 Administrative Code, through the process provided in this section. A proposed comprehensive
13 plan amendment shall be found in compliance with state coastal high-hazard provisions pursuant
14 to rule 9J-5.012(3)(b)6. and 7., Florida Administrative Code, if:

15 1. The area subject to the amendment is not:

- 16 a) within a designated area of critical state concern;
17 b) inclusive of areas within the FEMA velocity zones;
18 c) subject to coastal erosion;
19 d) seaward of the coastal construction control line; or,
20 e) subject to repetitive damage from coastal storms and floods.

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

- 22 a) hazard mitigation strategies that reduce, replace or eliminate unsafe structures and
23 properties subject to repetitive losses from coastal storms or floods;
24 b) measures that reduce exposure to hazards including;

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25 i. Relocation;

26 ii. structural modifications of threatened infrastructure;

27 iii. provisions for operational or capacity improvements to maintain hurricane
28 evacuation clearance times within established limits; and,

29 iv. prohibition of public expenditures that subsidize increased densities and
30 intensities of development within the coastal high hazard area.

31 c) A post disaster redevelopment plan.

32 3. 4-

33 a) The adopted level of service for out-of-county hurricane evacuation clearance time is
34 maintained for a category 5 storm event as measured on the Saffir-Simpson scale
35 provided that the adopted out-of- county hurricane evacuation clearance time does not
36 exceed 16 hours and is based upon the time necessary to reach shelter space;

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

41 c) 3- Appropriate mitigation is provided that will ensure that satisfy the provisions of
42 subparagraph 1. or subparagraph 2. s. 163.3178(9)(a)3.a) or b) will be achieved prior to
43 the development authorized by the comprehensive plan amendment. Appropriate
44 mitigation shall include, without limitation, payment of money, contribution of land, and
45 construction of hurricane shelters and transportation facilities. Required mitigation shall
46 not exceed the amount required for a developer to accommodate impacts reasonably
47 attributable to development. A local government and a developer shall enter into a
48 binding agreement to memorialize the mitigation plan.

49 (b) For those local governments that have not established a level of service for out-of-county
50 hurricane evacuation by July 1, 2008, but elect to comply with rule 9J-5.012(3)(b)6. and 7.,
51 Florida Administrative Code, by following the process in paragraph (a), the level of service shall

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52 | be no greater than 16 hours for a category 5 storm event as measured on the Saffir-Simpson scale
53 | based upon the time necessary to reach shelter space.

54 | (c) This subsection shall become effective immediately and shall apply to all local governments.
55 | No later than July 1, 2009 ~~2008~~, local governments shall amend their future land use map and
56 | coastal management element to include the new definition of coastal high-hazard area and to
57 | depict the coastal high-hazard area on the future land use map.

58 |

59 |

**TRANSPORTATION
CONCURRENCY
MARCH 4, 2008
LEGISLATION**

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1 **163.3180 Concurrency.--**

2 (1) **APPLICABILITY OF CONCURRENCY REQUIREMENTS.**

3 (a) **Public Facility Types.** Sanitary sewer, solid waste, drainage, potable water, parks and
4 recreation, schools, and transportation facilities, including mass transit, where applicable, are the
5 only public facilities and services subject to the concurrency requirement on a statewide basis.
6 Additional public facilities and services may not be made subject to concurrency on a statewide
7 basis without appropriate study and approval by the Legislature; however, any local government
8 may extend the concurrency requirement so that it applies to additional public facilities within its
9 jurisdiction.

10 (b) **Transportation Methodologies.** Local governments shall use professionally accepted
11 techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and
12 trucks. These techniques may be used to evaluate increased accessibility by multiple modes and
13 reductions in vehicle miles of travel in an area or zone. The state land planning agency and the
14 Department of Transportation shall develop methodologies to assist local governments in
15 implementing this multimodal level-of-service analysis. The state land planning agency
16 ~~Department of Community Affairs~~ and the Department of Transportation shall provide technical
17 assistance to local governments in applying these methodologies.

18 (2) **PUBLIC FACILITY AVAILABILITY STANDARDS.**

19 (a) **Sanitary Sewer, Solid Waste, Drainage, Adequate Water Supply, and Potable Water**
20 **Facilities.** Consistent with public health and safety, sanitary sewer, solid waste, drainage,
21 adequate water supplies, and potable water facilities shall be in place and available to serve new
22 development no later than the issuance by the local government of a certificate of occupancy or
23 its functional equivalent. Prior to approval of a building permit or its functional equivalent, the
24 local government shall consult with the applicable water supplier to determine whether adequate
25 water supplies to serve the new development will be available no later than the anticipated date
26 of issuance by the local government of a certificate of occupancy or its functional equivalent. A
27 local government may meet the concurrency requirement for sanitary sewer through the use of

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28 onsite sewage treatment and disposal systems approved by the Department of Health to serve
29 new development.

30 (b) **Parks and Recreation Facilities.** Consistent with the public welfare, and except as
31 otherwise provided in this section, parks and recreation facilities to serve new development shall
32 be in place or under actual construction no later than 1 year after issuance by the local
33 government of a certificate of occupancy or its functional equivalent. However, the acreage for
34 such facilities shall be dedicated or be acquired by the local government prior to issuance by the
35 local government of a certificate of occupancy or its functional equivalent, or funds in the
36 amount of the developer's fair share shall be committed no later than the local government's
37 approval to commence construction.

38 (c) **Transportation Facilities.** Consistent with the public welfare, and except as otherwise
39 provided in this section, transportation facilities needed to serve new development shall be in
40 place or under actual construction within 3 years after the local government approves a building
41 permit or its functional equivalent that results in traffic generation.

42 (3) **GOVERNMENTAL ENTITIES NOT RESPONSIBLE FOR ESTABLISHING**
43 **LEVEL-OF-SERVICE STANDARDS.** Governmental entities that are not responsible for
44 providing, financing, operating, or regulating public facilities needed to serve development may
45 not establish binding level-of-service standards on governmental entities that do bear those
46 responsibilities. This subsection does not limit the authority of any agency to recommend or
47 make objections, recommendations, comments, or determinations during reviews conducted
48 under s. 163.3184.

49 (4) **APPLICATION OF CONCURRENCY TO STATE AND OTHER PUBLIC**
50 **FACILITIES AND WITHIN INFILL AND REDEVELOPMENT AREAS.**

51 (a) **State and other Public Facilities.** The concurrency requirement as implemented in local
52 comprehensive plans applies to state and other public facilities and development to the same
53 extent that it applies to all other facilities and development, as provided by law.

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54 (b) **Public Transit Facilities.** The concurrency requirement as implemented in local
55 comprehensive plans does not apply to public transit facilities. For the purposes of this
56 paragraph, public transit facilities include transit stations and terminals; transit station parking;
57 park-and-ride lots; intermodal public transit connection or transfer facilities; fixed bus,
58 guideway, and rail stations; and airport passenger terminals and concourses, air cargo facilities,
59 and hangars for the maintenance or storage of aircraft. As used in this paragraph, the terms
60 "terminals" and "transit facilities" do not include seaports or commercial or residential
61 development constructed in conjunction with a public transit facility.

62 (c) **Infill and Redevelopment Areas.** The concurrency requirement, except as it relates to
63 transportation facilities and public schools, as implemented in local government comprehensive
64 plans, may be waived by a local government for urban infill and redevelopment areas designated
65 pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by
66 the local government in its local government comprehensive plan. The waiver shall be adopted
67 as a plan amendment pursuant to the process set forth in s. 163.3187(3)(a). A local government
68 may grant a concurrency exception pursuant to subsection (5) for transportation facilities located
69 within these urban infill and redevelopment areas.

70 (5) **TRANSPORTATION CONCURRENCY EXCEPTION AREAS.**

71 (a) **Countervailing Planning and Public Policy Goals.** The Legislature finds that under
72 limited circumstances dealing with transportation facilities, countervailing planning and public
73 policy goals may come into conflict with the requirement that adequate public facilities and
74 services be available concurrent with the impacts of such development. The Legislature further
75 finds that often the unintended result of the concurrency requirement for transportation facilities
76 is the discouragement of urban infill development and redevelopment. Such unintended results
77 directly conflict with the goals and policies of the state comprehensive plan and the intent of this
78 part. Moreover, the Legislature recognizes that in Florida's urban centers transportation cannot
79 be effectively managed and mobility cannot be improved solely through expansion of roadway
80 capacity, that in many urban areas the expansion of roadway capacity is not physically or
81 financially possible, and that a range of transportation alternatives are essential to satisfy
82 mobility needs, reduce congestion, and achieve healthy, vibrant centers. Therefore,

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83 transportation concurrency exception areas are required to achieve the goals and objectives of
84 this part. exceptions from the concurrency requirement for transportation facilities may be
85 granted as provided by this subsection.

86 (b) **Geographic Applicability of Transportation Concurrency Exception Areas.**

87 1. Within municipalities, transportation concurrency exception areas are hereby established for
88 those geographic areas identified in the comprehensive plan for:

- 89 a) urban infill development;
- 90 b) urban redevelopment;
- 91 c) downtown revitalization; and,
- 92 d) urban infill and redevelopment under s. 163.2517.

93 2. In other portions of the state a ~~A~~ local government may adopt a comprehensive plan
94 amendment establishing an exception area ~~grant an exception from the concurrency requirement~~
95 for transportation facilities if the proposed development is otherwise consistent with the adopted
96 local government comprehensive plan and is a project that promotes public transportation or is
97 located within an area designated in the comprehensive plan for:

- 98 a) 1. Urban infill development;
- 99 b) 2. Urban redevelopment;
- 100 c) 3. Downtown revitalization;
- 101 d) 4. Urban infill and redevelopment under s. 163.2517; or
- 102 e) 5. An urban service area specifically designated as a transportation concurrency
103 exception area which includes lands appropriate for compact, contiguous urban
104 development, which does not exceed the amount of land needed to accommodate the

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105 projected population growth at densities consistent with the adopted comprehensive plan
106 within the 10-year planning period, and which is served or is planned to be served with
107 public facilities and services as provided by the capital improvements element.

108 (c) **Projects with Special Part-Time Demands.** The Legislature also finds that developments
109 located within urban infill, urban redevelopment, existing urban service, or downtown
110 revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517
111 which pose only special part-time demands on the transportation system should be excepted from
112 the concurrency requirement for transportation facilities. A special part-time demand is one that
113 does not have more than 200 scheduled events during any calendar year and does not affect the
114 100 highest traffic volume hours.

115 ~~(d) A local government shall establish guidelines in the comprehensive plan for granting the~~
116 ~~exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be~~
117 ~~consistent with and support a comprehensive strategy adopted in the plan to promote the purpose~~
118 ~~of the exceptions.~~

119 (d) ~~(e)~~ **Long-Term Strategies within Transportation Concurrency Exception Areas.**

120 For transportation concurrency exception areas adopted pursuant to s. 163.3180(5)(b)2., the
121 following requirements shall apply:

122 1. The local government shall adopt into the plan and implement long-term strategies to support
123 and fund mobility within the designated transportation exception area, including alternative
124 modes of transportation. The plan amendment must also demonstrate how strategies will support
125 the purpose of the exception and how mobility within the designated exception area will be
126 provided.

127 2. In addition, the strategies must address urban design; appropriate land use mixes, including
128 intensity and density; and; network connectivity plans needed to promote urban infill,
129 redevelopment, ~~or~~ downtown revitalization, or infill and redevelopment. The comprehensive
130 plan amendment designating the exception area must be accompanied by data and analysis
131 justifying the size of the area.

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132 (e) ~~(f)~~ **Consultation on Strategic Intermodal System.** Prior to the designation of an exception
133 area pursuant to s. 163.3180(5)(b)2., the state land planning agency and the Department of
134 Transportation shall be consulted by the local government to assess the impact that the proposed
135 exception area is expected to have on the adopted level-of-service standards established for
136 Strategic Intermodal System facilities, as defined in s. 339.64, and roadway facilities funded in
137 accordance with s. 339.2819. Further, as a part of the comprehensive plan amendment
138 establishing a transportation concurrency exception area, the local government shall provide for
139 mitigation of impacts, in consultation with the state land planning agency and the Department of
140 Transportation, develop a plan to mitigate any impacts to the Strategic Intermodal System,
141 including, if appropriate, access management, parallel reliever roads, transportation demand
142 management, and other measures. the development of a long term concurrency management
143 system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only
144 within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s.
145 163.3184, any affected person may challenge a plan amendment establishing these guidelines
146 and the areas within which an exception could be granted.

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

151 (6) **DI MINIMIS IMPACTS.** The Legislature finds that a de minimis impact is consistent with
152 this part. A de minimis impact is an impact that would not affect more than 1 percent of the
153 maximum volume at the adopted level of service of the affected transportation facility as
154 determined by the local government. No impact will be de minimis if the sum of existing
155 roadway volumes and the projected volumes from approved projects on a transportation facility
156 would exceed 110 percent of the maximum volume at the adopted level of service of the affected
157 transportation facility; provided however, that an impact of a single family home on an existing
158 lot will constitute a de minimis impact on all roadways regardless of the level of the deficiency
159 of the roadway. Further, no impact will be de minimis if it would exceed the adopted level-of-
160 service standard of any affected designated hurricane evacuation routes. Each local government

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161 shall maintain sufficient records to ensure that the 110-percent criterion is not exceeded. ~~Each~~
162 ~~local government shall submit annually, with its updated capital improvements element, a~~
163 ~~summary of the de minimis records. If the state land planning agency determines that the 110-~~
164 ~~percent criterion has been exceeded, the state land planning agency shall notify the local~~
165 ~~government of the exceedance and that no further de minimis exceptions for the applicable~~
166 ~~roadway may be granted until such time as the volume is reduced below the 110 percent. The~~
167 ~~local government shall provide proof of this reduction to the state land planning agency before~~
168 ~~issuing further de minimis exceptions.~~

169 (7) **Concurrency Management Areas.** In order to promote infill development and
170 redevelopment, one or more transportation concurrency management areas may be designated in
171 a local government comprehensive plan. A transportation concurrency management area must be
172 a compact geographic area with an existing network of roads where multiple, viable alternative
173 travel paths or modes are available for common trips. A local government may establish an
174 areawide level-of-service standard for such a transportation concurrency management area based
175 upon an analysis that provides for a justification for the areawide level of service, how urban
176 infill development or redevelopment will be promoted, and how mobility will be accomplished
177 within the transportation concurrency management area. Prior to the designation of a
178 concurrency management area, the state land planning agency and the Department of
179 Transportation shall be consulted by the local government to assess the impact that the proposed
180 concurrency management area is expected to have on the adopted level-of-service standards
181 established for Strategic Intermodal System facilities, as defined in s. 339.64, and roadway
182 facilities funded in accordance with s. 339.2819. Further, the local government shall, in
183 cooperation with the state land planning agency and the Department of Transportation, develop a
184 plan to mitigate any impacts to the Strategic Intermodal System, including, if appropriate, the
185 development of a long-term concurrency management system pursuant to subsection (9) and s.
186 163.3177(3)(d). Transportation concurrency management areas existing prior to July 1, 2005,
187 shall meet, at a minimum, the provisions of this section by July 1, 2006, or at the time of the
188 comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs
189 last. The state land planning agency shall amend chapter 9J-5, Florida Administrative Code, to
190 be consistent with this subsection.

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191 (8) **URBAN REDEVELOPMENT.** When assessing the transportation impacts of proposed
192 urban redevelopment within an established existing urban service area, ~~150~~ 40 percent of the
193 actual transportation impact caused by the previously existing development must be reserved for
194 the redevelopment, even if the previously existing development has a lesser or nonexistent
195 impact pursuant to the calculations of the local government. Redevelopment requiring less than
196 ~~150~~ 40 percent of the previously existing capacity shall not be prohibited due to the reduction
197 of transportation levels of service below the adopted standards. This does not preclude the
198 appropriate assessment of fees or accounting for the impacts within the concurrency
199 management system and capital improvements program of the affected local government. This
200 paragraph does not affect local government requirements for appropriate development permits.

201 (9) **LONG-TERM CONCURRENCY MANAGEMENT.**

202 (a) Each local government may adopt as a part of its plan, long-term transportation and school
203 concurrency management systems with a planning period of up to 10 years for specially
204 designated districts or areas where significant backlogs exist. The plan may include interim
205 level-of-service standards on certain facilities and shall rely on the local government's schedule
206 of capital improvements for up to 10 years as a basis for issuing development orders that
207 authorize commencement of construction in these designated districts or areas. The concurrency
208 management system must be designed to correct existing deficiencies and set priorities for
209 addressing backlogged facilities and be developed in coordination with the appropriate
210 Metropolitan Planning Organization. The concurrency management system must be financially
211 feasible and consistent with other portions of the adopted local plan, including the future land
212 use map.

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

218 1. The extent of the backlog.

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- 219 2. For roads, whether the backlog is on local or state roads.
- 220 3. The cost of eliminating the backlog.
- 221 4. The local government's tax and other revenue-raising efforts.
- 222 (c) The local government may issue approvals to commence construction notwithstanding this
223 section, consistent with and in areas that are subject to a long-term concurrency management
224 system.
- 225 (d) If the local government adopts a long-term concurrency management system, it must
226 evaluate the system periodically. At a minimum, the local government must assess its progress
227 toward improving levels of service within the long-term concurrency management district or
228 area in the evaluation and appraisal report and determine any changes that are necessary to
229 accelerate progress in meeting acceptable levels of service.
- 230 (10) **GOVERNMENTAL ENTITIES RESPONSIBLE FOR ESTABLISHMENT OF**
231 **TRANSPORTATION LEVEL-OF-SERVICE STANDARDS.** With regard to roadway
232 facilities on the Strategic Intermodal System designated in accordance with ss. 339.61, 339.62,
233 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and
234 roadway facilities funded in accordance with s. 339.2819, local governments shall adopt the
235 level-of-service standard established by the Department of Transportation by rule. For all other
236 roads on the State Highway System, local governments shall establish an adequate level-of-
237 service standard that need not be consistent with any level-of-service standard established by the
238 Department of Transportation. In establishing adequate level-of-service standards for any arterial
239 roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments
240 shall consider compatibility with the roadway facility's adopted level-of-service standards in
241 adjacent jurisdictions. Each local government within a county shall use a professionally accepted
242 methodology for measuring impacts on transportation facilities for the purposes of implementing
243 its concurrency management system. Counties are encouraged to coordinate with adjacent
244 counties, and local governments within a county are encouraged to coordinate, for the purpose of

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245 using common methodologies for measuring impacts on transportation facilities for the purpose
246 of implementing their concurrency management systems.

247 (11) **LIMITATION OF LIABILITY.** In order to limit the liability of local governments, a
248 local government may allow a landowner to proceed with development of a specific parcel of
249 land notwithstanding a failure of the development to satisfy transportation concurrency, when all
250 the following factors are shown to exist:

251 (a) The local government with jurisdiction over the property has adopted a local comprehensive
252 plan that is in compliance.

253 (b) The proposed development would be consistent with the future land use designation for the
254 specific property and with pertinent portions of the adopted local plan, as determined by the local
255 government.

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

259 (d) The local government has provided a means by which the landowner will be assessed a fair
260 share of the cost of providing the transportation facilities necessary to serve the proposed
261 development.

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

264 (12) **DEVELOPMENT OF REGIONAL IMPACT PROPORTIONATE SHARE.**

265 A development of regional impact may satisfy the transportation concurrency requirements of
266 the local comprehensive plan, the local government's concurrency management system, and s.
267 380.06 by payment of a proportionate-share contribution for local and regionally significant
268 traffic impacts, if:

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- 269 (a) The development of regional impact which, based on its location or mix of land uses, is
270 designed to encourage pedestrian or other nonautomotive modes of transportation;
- 271 (b) The proportionate-share contribution for local and regionally significant traffic impacts is
272 sufficient to pay for one or more required mobility improvements that will benefit a the network of
273 regionally significant transportation facility facilities provided that impacts on the Strategic
274 Intermodal System, the Florida Intrastate Highway System, and other regionally significant
275 roadways outside of the jurisdiction of the local government are mitigated based on the prioritization
276 of needed improvements as recommended by the regional planning council;
- 277 (b) The proportionate-share contribution for local and regionally significant traffic impacts is
278 sufficient to pay for one or more required mobility improvements that will benefit a regionally
279 significant transportation facility;
- 280 (c) The owner and developer of the development of regional impact pays or assures payment of
281 the proportionate-share contribution; and
- 282 (d) If the regionally significant transportation facility to be constructed or improved is under the
283 maintenance authority of a governmental entity, as defined by s. 334.03(12), other than the local
284 government with jurisdiction over the development of regional impact, the developer is required
285 to enter into a binding and legally enforceable commitment to transfer funds to the governmental
286 entity having maintenance authority or to otherwise assure construction or improvement of the
287 facility.
- 288
- 289 The proportionate-share contribution may be applied to any transportation facility to satisfy the
290 provisions of this subsection and the local comprehensive plan, but, for the purposes of this
291 subsection, the amount of the proportionate-share contribution shall be calculated based upon the
292 cumulative number of trips from the proposed development expected to reach roadways during
293 the peak hour from the complete buildout of a stage or phase being approved, divided by the
294 change in the peak hour maximum service volume of roadways resulting from construction of an
295 improvement necessary to maintain the adopted level of service, multiplied by the construction
296 cost, at the time of developer payment, of the improvement necessary to maintain the adopted

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297 level of service. For purposes of this subsection, "construction cost" includes all associated costs
298 of the improvement. Proportionate-share mitigation shall be limited to ensure that a development
299 of regional impact meeting the requirements of this subsection mitigates its impact on the
300 transportation system but is not responsible for the additional cost of reducing or eliminating
301 backlogs. This subsection also applies to Florida Quality Developments pursuant to s. 380.061
302 and to detailed specific area plans implementing optional sector plans pursuant to s. 163.3245.

303 (15)(a) **Multimodal Districts.** Multimodal transportation districts may be established under a
304 local government comprehensive plan in areas delineated on the future land use map for which
305 the local comprehensive plan assigns secondary priority to vehicle mobility and primary priority
306 to assuring a safe, comfortable, and attractive pedestrian environment, with convenient
307 interconnection to transit. Such districts must incorporate community design features that will
308 reduce the number of automobile trips or vehicle miles of travel and will support an integrated,
309 multimodal transportation system. Prior to the designation of multimodal transportation districts,
310 the Department of Transportation shall be consulted by the local government to assess the impact
311 that the proposed multimodal district area is expected to have on the adopted level-of-service
312 standards established for Strategic Intermodal System facilities, as defined in s. 339.64, and
313 roadway facilities funded in accordance with s. 339.2819. Further, the local government shall, in
314 cooperation with the Department of Transportation, develop a plan to mitigate any impacts to the
315 Strategic Intermodal System, including the development of a long-term concurrency
316 management system pursuant to subsection (9) and s. 163.3177(3)(d). Multimodal transportation
317 districts existing prior to July 1, 2005, shall meet, at a minimum, the provisions of this section by
318 July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and
319 appraisal report, whichever occurs last.

320 (b) Community design elements of such a district include: a complementary mix and range of
321 land uses, including educational, recreational, and cultural uses; interconnected networks of
322 streets designed to encourage walking and bicycling, with traffic-calming where desirable;
323 appropriate densities and intensities of use within walking distance of transit stops; daily
324 activities within walking distance of residences, allowing independence to persons who do not
325 drive; public uses, streets, and squares that are safe, comfortable, and attractive for the

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326 pedestrian, with adjoining buildings open to the street and with parking not interfering with
327 pedestrian, transit, automobile, and truck travel modes.

328 (c) Local governments may establish multimodal level-of-service standards that rely primarily
329 on nonvehicular modes of transportation within the district, when justified by an analysis
330 demonstrating that the existing and planned community design will provide an adequate level of
331 mobility within the district based upon professionally accepted multimodal level-of-service
332 methodologies. The analysis must also demonstrate that the capital improvements required to
333 promote community design are financially feasible over the development or redevelopment
334 timeframe for the district and that community design features within the district provide
335 convenient interconnection for a multimodal transportation system. Local governments may
336 issue development permits in reliance upon all planned community design capital improvements
337 that are financially feasible over the development or redevelopment timeframe for the district,
338 without regard to the period of time between development or redevelopment and the scheduled
339 construction of the capital improvements. A determination of financial feasibility shall be based
340 upon currently available funding or funding sources that could reasonably be expected to
341 become available over the planning period.

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

345 (e) By December 1, 2007, the Department of Transportation, in consultation with the state land
346 planning agency and interested local governments, may designate a study area for conducting a
347 pilot project to determine the benefits of and barriers to establishing a regional multimodal
348 transportation concurrency district that extends over more than one local government
349 jurisdiction. If designated:

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

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354 2. The local governments within the study area and the Department of Transportation, in
355 consultation with the state land planning agency, shall cooperatively create a multimodal
356 transportation plan that meets the requirements of this section. The multimodal transportation
357 plan must include viable local funding options and incorporate community design features,
358 including a range of mixed land uses and densities and intensities, which will reduce the number
359 of automobile trips or vehicle miles of travel while supporting an integrated, multimodal
360 transportation system.

361 3. To effectuate the multimodal transportation concurrency district, participating local
362 governments may adopt appropriate comprehensive plan amendments.

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

368 (16) **DEVELOPMENT PROPORTIONATE FAIR-SHARE.**

369 It is the intent of the Legislature to provide a method by which the impacts of development on
370 transportation facilities can be mitigated by the cooperative efforts of the public and private sectors.
371 The methodology used to calculate proportionate fair-share mitigation under this section shall be as
372 provided for in subsection (11) ~~(12)~~, or a vehicle and people miles traveled methodology or an
373 alternative methodology, identified by the local government as a part of its comprehensive plan and
374 that ensures that development impacts on transportation facilities are mitigated.

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

379 (b)1. In its transportation concurrency management system, a local government shall, by
380 December 1, 2006, include methodologies that will be applied to calculate proportionate fair-

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381 share mitigation. A developer may choose to satisfy all transportation concurrency requirements
382 by contributing or paying proportionate fair-share mitigation if transportation facilities or facility
383 segments identified as mitigation for traffic impacts are specifically identified for funding in the
384 5-year schedule of capital improvements in the capital improvements element of the local plan or
385 the long-term concurrency management system or if such contributions or payments to such
386 facilities or segments are reflected in the 5-year schedule of capital improvements in the next
387 regularly scheduled update of the capital improvements element. Updates to the 5-year capital
388 improvements element which reflect proportionate fair-share contributions may not be found not
389 in compliance based on ss. 163.3164(32) and 163.3177(3) if additional contributions, payments
390 or funding sources are reasonably anticipated during a period not to exceed 10 years to fully
391 mitigate impacts on the transportation facilities.

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

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

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

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

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

425 (g) Except as provided in subparagraph (b)1., this section may not prohibit the Department of
426 Community Affairs from finding other portions of the capital improvements element
427 amendments not in compliance as provided in this chapter.

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

430 ~~(17) A local government and the developer of affordable workforce housing units developed in~~
431 ~~accordance with s. 380.06(19) or s. 380.0651(3) may identify an employment center or centers in~~
432 ~~close proximity to the affordable workforce housing units. If at least 50 percent of the units are~~
433 ~~occupied by an employee or employees of an identified employment center or centers, all of the~~
434 ~~affordable workforce housing units are exempt from transportation concurrency requirements,~~
435 ~~and the local government may not reduce any transportation trip generation entitlements of an~~
436 ~~approved development of regional impact development order. As used in this subsection, the~~
437 ~~term "close proximity" means 5 miles from the nearest point of the development of regional~~

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438 ~~impact to the nearest point of the employment center, and the term "employment center" means a~~
439 ~~place of employment that employs at least 25 or more full-time employees.~~

440
441 **(17) TRANSPORTATION CONCURRENCY INCENTIVES.** The Legislature finds that
442 allowing private sector entities to finance, construct, and improve public transportation facilities
443 can provide significant benefits to the citizens of this state by facilitating transportation of the
444 general public without the need for additional public tax revenues. In order to encourage the
445 more efficient and proactive provision of transportation improvements by the private sector, if a
446 developer or property owner voluntarily contributes right-of-way and physically constructs or
447 expands a state transportation facility or segment, and such construction or expansion improves
448 traffic flow, capacity, or safety, the voluntary contribution may be applied as a credit for that
449 property owner or developer against any future transportation concurrency requirements
450 pursuant to chapter 163, provided that the transportation improvement is identified in the five
451 year work plan of the Department of Transportation, such contributions and credits are set forth
452 in a legally binding agreement executed by the property owner or developer, the local
453 government of the jurisdiction in which the facility is located, and the Department of
454 Transportation department. If the developer or property owner voluntarily contributes right-of-
455 way and physically constructs or expands a local government facility or segment and such
456 construction or expansion is identified in the capital improvement schedule, meets the
457 requirements in this section, and is set forth in a legally binding agreement between the property
458 owner or developer and the applicable local government, the contribution to the local
459 government collector and the arterial system may be applied as credit against any future
460 transportation concurrency requirements within the jurisdiction under chapter 163.

461 *DRAFTING NOTE: SUBSECTION (17) ABOVE IS CURRENTLY LOCATED AT S. 339.282. IT*
462 *WOULD BE RELOCATED TO S. 163.3180(17) AND REVISED AS INDICATED.*

463
464 **(18) Transportation Mobility Fee.** The Legislature finds that the existing transportation
465 concurrency system has not adequately addressed Florida's transportation needs in an effective,
466 predictable and equitable manner and is not producing a sustainable transportation system for the

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467 state. The current system is complex, lacks uniformity among jurisdictions, is too focused on
468 roadways to the detriment of desired land use patterns and transportation alternatives, and
469 frequently prevents the attainment of important growth management goals. Therefore, the
470 Legislature has determined that the state should consider a different transportation concurrency
471 approach which would utilize a mobility fee based on vehicle and people miles traveled. The
472 mobility fee shall be designed to provide for mobility needs, ensure that development provides
473 mitigation for its impacts on the transportation system, and promote compact, mixed-use, and
474 energy efficient development. Therefore, the Legislature directs the state land planning agency
475 to develop a methodology for a mobility fee system as follows:

476 (a) The state land planning agency in consultation with the Department of Transportation shall
477 prepare a uniform mobility fee methodology for statewide application to replace the existing
478 transportation concurrency management system. The methodology shall be based on the
479 amount, distribution, and timing of the vehicle and people miles traveled, professionally
480 accepted standards and practices in the fields of land use and transportation planning, and the
481 requirements of constitutional and statutory law. The mobility fee shall be used to fund
482 improvements to the transportation system.

483 (b) No later than February 15, 2009, the state land planning agency shall adopt amendments to
484 chapter 9J-5, Florida Administrative Code, to incorporate a mobility fee methodology.

485 (c) No later than February 15, 2009, the state land planning agency shall submit the amendments
486 to chapter 9J-5, Florida Administrative Code, to the President of the Senate and Speaker of the
487 House. The Florida Legislature may approve as submitted, approve with revisions, or reject the
488 amendments to chapter 9J-5, Florida Administrative Code. If approved as submitted, the
489 amendments shall go into effect on July 1, 2009. If approved with revisions, the state land
490 planning agency shall adopt the amendments as revised such that they will become effective not
491 later than July 1, 2009. The Legislature declares that changes made to chapter 9J-5, Florida
492 Administrative Code, pursuant to this sub-part shall not be subject to rule challenges under s.
493 120.56(2), or to drawout proceedings under s. 120.54(3)(c)2.

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494 (d) Along with its submission of the amendments to chapter 9J-5, Florida Administrative Code,
495 to establish a mobility fee methodology, the state land planning agency shall provide
496 recommendations to the Legislature as to whether a mobility fee system should be applied
497 statewide or to more limited geographic areas, for a schedule to amend comprehensive plans and
498 land development regulations to incorporate the mobility fee, a system for the collection and
499 allocation of mobility fees among state and local transportation facilities, and whether and how
500 mobility fees should replace, revise or supplement transportation impact fees.

**OPTIONAL RURAL
SUB-ELEMENT
MARCH 4, 2008
LEGISLATION**

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1 **163.3177 Required and optional elements of comprehensive plan; studies and Surveys.--**

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

4 (a) A future land use plan element designating proposed future general distribution, location, and
5 extent of the uses of land for residential uses, commercial uses, industry, agriculture, recreation,
6 conservation, education, public buildings and grounds, other public facilities, and other categories of
7 the public and private uses of land. Counties are encouraged to designate rural land stewardship
8 areas, pursuant to the provisions of paragraph (11)(d), as overlays on the future land use map.

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

14 2. The future land use plan shall be based upon surveys, studies, and data regarding the area,
15 including the amount of land required to accommodate anticipated growth; the projected population of
16 the area; the character of undeveloped land; the availability of water supplies, public facilities, and
17 services; the need for redevelopment, including the renewal of blighted areas and the elimination of
18 nonconforming uses which are inconsistent with the character of the community; the compatibility of
19 uses on lands adjacent to or closely proximate to military installations; the discouragement of urban
20 sprawl; energy efficient land use patterns; and, in rural communities, the need for job creation, capital
21 investment, and economic development that will strengthen and diversify the community's economy.

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

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

27 5. ~~In addition,~~ Counties are encouraged to adopt a rural sub-element as a part of the future land use
28 plan element. This sub-element shall apply to all lands classified in the future land use plan element
29 as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use. The
30 rural sub-element shall include goals, objectives and policies that enhance rural economies, promote
31 the viability of agriculture, provide for appropriate economic development, discourage urban sprawl,
32 and ensure the protection of natural resources. The rural sub-element shall generally identify
33 anticipated areas of rural, agricultural, conservation, areas that may be considered for conversion to
34 urban land use, and appropriate sites for affordable housing. The rural sub-element shall also
35 generally identify areas that may be considered for rural land stewardship areas, sector planning, or
36 new communities or towns in accordance with ss. 163.3177(11) and ss. 163.3245(2). For ~~for~~ rural
37 communities, the amount of land designated for future planned industrial use shall be based upon
38 surveys and studies that reflect the need for job creation, capital investment, and the necessity to

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39 strengthen and diversify the local economies, and shall not be limited solely by the projected
40 population of the rural community.

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

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

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

48 9. The future land use element must clearly identify the land use categories in which public schools
49 are an allowable use. When delineating the land use categories in which public schools are an
50 allowable use, a local government shall include in the categories sufficient land proximate to
51 residential development to meet the projected needs for schools in coordination with public school
52 boards and may establish differing criteria for schools of different type or size. Each local
53 government shall include lands contiguous to existing school sites, to the maximum extent possible,
54 within the land use categories in which public schools are an allowable use. The failure by a local
55 government to comply with these school siting requirements will result in the prohibition of the local
56 government's ability to amend the local comprehensive plan, except for plan amendments described
57 in s. 163.3187(1)(b), until the school siting requirements are met. Amendments proposed by a local
58 government for purposes of identifying the land use categories in which public schools are an
59 allowable use are exempt from the limitation on the frequency of plan amendments contained in s.
60 163.3187. The future land use element shall include criteria that encourage the location of schools
61 proximate to urban residential areas to the extent possible and shall require that the local government
62 seek to collocate public facilities, such as parks, libraries, and community centers, with schools to
63 the extent possible and to encourage the use of elementary schools as focal points for
64 neighborhoods. For schools serving predominantly rural counties, defined as a county with a
65 population of 100,000 or fewer, an agricultural land use category shall be eligible for the location of
66 public school facilities if the local comprehensive plan contains school siting criteria and the
67 location is consistent with such criteria.

68 10. Local governments required to update or amend their comprehensive plan to include criteria and
69 address compatibility of adjacent or closely proximate lands with existing military installations in
70 their future land use plan element shall transmit the update or amendment to the department by June
71 30, 2006.

**OPTIONAL SECTOR
PLANS
MARCH 4, 2008
LEGISLATION**

Department of Community Affairs
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1 **163.3245 Optional sector plans.--**

2 (1) In recognition of the benefits of large-scale conceptual long-range ~~planning for the buildout~~
3 ~~of an area, and detailed planning for specific areas, as a demonstration project, the requirements~~
4 ~~of s. 380.06 may be addressed as identified by this section for up to five local governments or~~
5 ~~combinations of local governments~~ may which ~~adopt into their comprehensive plans~~ an optional
6 ~~sector vision~~ plan in accordance with this section. This section is intended to further the intent of
7 s. 163.3177(11), which supports innovative and flexible planning and development strategies,
8 and the purposes of this part, and part I of chapter 380, and to avoid duplication of effort in terms
9 of the level of data and analysis required for a development of regional impact, while ensuring
10 the adequate mitigation of impacts to applicable regional resources and facilities, including those
11 within the jurisdiction of other local governments, as would otherwise be provided. Optional
12 sector plans are intended for substantial geographic areas including at least 10,000 contiguous
13 ~~5,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and
14 protection of regionally significant resources and facilities. ~~The state land planning agency may~~
15 ~~approve optional sector plans of less than 5,000 acres based on local circumstances if it is~~
16 ~~determined that the plan would further the purposes of this part and part I of chapter 380.~~
17 ~~Preparation of an optional sector plan is authorized by agreement between the state land planning~~
18 ~~agency and the applicable local governments under s. 163.3171(4). An optional sector plan may~~
19 ~~be adopted through one or more comprehensive plan amendments under s. 163.3184. However,~~
20 ~~an optional sector plan may not be authorized in an area of critical state concern.~~

21 (2) ~~The state land planning agency may enter into an agreement to authorize preparation of an~~
22 ~~optional sector plan upon the request of one or more local governments based on consideration~~
23 ~~of problems and opportunities presented by existing development trends; the effectiveness of~~
24 ~~current comprehensive plan provisions; the potential to further the state comprehensive plan,~~
25 ~~applicable strategic regional policy plans, this part, and part I of chapter 380; and those factors~~
26 ~~identified by s. 163.3177(10)(i). The applicable regional planning council shall conduct a~~
27 ~~scoping meeting with affected local governments and those agencies identified in s. 163.3184(4)~~
28 ~~before the local government(s) may consider the sector plan amendments for transmittal.~~
29 ~~execution of the agreement authorized by this section. The purpose of this meeting is to assist the~~
30 ~~state land planning agency and the local government in the identification of the relevant planning~~
31 ~~issues to be addressed and the data and resources available to assist in the preparation of the~~

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32 subsequent plan amendments. The regional planning council shall make written
33 recommendations to the state land planning agency and affected local governments, ~~including~~
34 ~~whether a sustainable sector plan would be appropriate. The agreement must define~~ regarding the
35 geographic area to be subject to the sector plan, the planning issues that will be emphasized,
36 requirements for intergovernmental coordination to address extrajurisdictional impacts,
37 supporting application materials including data and analysis, and procedures for public
38 participation. ~~An agreement may address previously adopted sector plans that are consistent with~~
39 ~~the standards in this section. Before executing an agreement under this subsection, the local~~
40 ~~government shall hold a duly noticed public workshop to review and explain to the public the~~
41 ~~optional sector planning process and the terms and conditions of the proposed agreement. The~~
42 ~~local government shall hold a duly noticed public hearing to execute the agreement. All meetings~~
43 between the department and the local government must be open to the public.

44 (3) Optional sector planning encompasses two levels: adoption under ss. 163.3184 of a
45 conceptual long-term buildout plan as part of overlay to the comprehensive plan, ~~having no~~
46 ~~immediate effect on the issuance of development orders or the applicability of s. 380.06, and~~
47 adoption under s. 163.3184 of detailed specific area plans that implement the conceptual long-
48 term buildout plan overlay and authorize issuance of development orders, and within which s.
49 380.06 is waived. Upon adoption of a conceptual long-term buildout plan, the underlying future
50 land use designations may be utilized only if consistent with the overlay and its implementing
51 goals, objectives, and policies. Until such time as a detailed specific area plan is adopted, the
52 underlying future land use designations apply.

53 (a) In addition to the other requirements of this chapter, a conceptual long-term buildout plan
54 adopted pursuant to s. 163.3184 overlay must include maps and text supported by data and
55 analysis to address the following:

56 1. A long-range conceptual framework map that at a minimum identifies the maximum and
57 minimum amounts, densities, intensities and types of anticipated allowable development at
58 buildout, and generally depicts areas of urban, agricultural, rural, and conservation land use.

59 2. A general identification of regionally significant public facilities ~~consistent with chapter 9J-~~
60 ~~2, Florida Administrative Code, irrespective of local governmental jurisdiction, necessary to~~
61 support buildout of the anticipated future land uses, and policies setting forth the procedures that

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62 will be used to address and mitigate these impacts as part of the adoption of detailed specific
63 area plans.

64 3. A general identification of regionally significant natural resources consistent with chapter
65 9J-2, Florida Administrative Code, and policies ensuring the protection and conservation of these
66 resources.

67 4. Principles and guidelines that address the urban form and interrelationships of anticipated
68 future land uses, ~~and a discussion, at the applicant's option, of the extent, if any, to which the~~
69 ~~plan will address~~ restoring key ecosystems, achieving a more clean, healthy environment,
70 limiting urban sprawl within sector plan and surrounding area, providing affordable and
71 workforce housing, promoting energy efficient land use patterns, protecting wildlife and natural
72 areas, advancing the efficient use of land and other resources, and creating quality communities
73 and jobs.

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

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

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

83 2. Detailed identification and analysis of the minimum and maximum amounts, densities,
84 intensities, distribution, extent, and location of future land uses.

85 3. Detailed identification of regionally significant public facilities, including public facilities
86 outside the jurisdiction of the host local government, anticipated impacts of future land uses on
87 those facilities, and required improvements consistent with the policies accompanying the plan
88 and, for transportation, with Rule 9J-2.045, Chapter 9J-2, Florida Administrative Code.

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

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

95 6. Principles and guidelines that address the urban form and interrelationships of anticipated
96 future land uses, ~~and a discussion, at the applicant's option, of the extent, if any, to which the~~
97 ~~plan will address~~ restoring key ecosystems, achieving a more clean, healthy environment,
98 limiting urban sprawl, providing affordable and workforce housing, promoting energy efficient
99 land use patterns, protecting wildlife and natural areas, advancing the efficient use of land and
100 other resources, and creating quality communities and jobs.

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

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

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

110 (45) When a plan amendment adopting a detailed specific area plan has become effective under
111 ss. 163.3184 and 163.3189(2), the provisions of s. 380.06 do not apply to development within the
112 geographic area of the detailed specific area plan. However, any development-of-regional-impact
113 development order that is vested from the detailed specific area plan may be enforced under s.
114 380.11.

115 (a) The local government adopting the detailed specific area plan is primarily responsible for
116 monitoring and enforcing the detailed specific area plan. Local governments shall not issue any

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117 permits or approvals or provide any extensions of services to development that are not consistent
118 with the detailed sector area plan.

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

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

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

129 (5) ~~(7)~~ This section may not be construed to abrogate the rights of any person under this chapter.

130

131

132

**REVISED &
SUPPLANTED
PROVISIONS
MARCH 4, 2008
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1 163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

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

4 (a) A future land use plan element designating proposed future general distribution, location,
5 and extent of the uses of land for residential uses, commercial uses, industry, agriculture,
6 recreation, conservation, education, public buildings and grounds, other public facilities, and
7 other categories of the public and private uses of land. Counties are encouraged to designate
8 rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as overlays on the
9 future land use map.

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

15 2. The future land use plan shall be based upon surveys, studies, and data regarding the area,
16 including the amount of land required to accommodate anticipated growth; the projected
17 population of the area; the character of undeveloped land; the availability of water supplies, public
18 facilities, and services; the need for redevelopment, including the renewal of blighted areas and
19 the elimination of nonconforming uses which are inconsistent with the character of the
20 community; the compatibility of uses on lands adjacent to or closely proximate to military
21 installations; the discouragement of urban sprawl; energy efficient land use patterns; and, in rural
22 communities, the need for job creation, capital investment, and economic development that will
23 strengthen and diversify the community's economy.

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

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- 27 4. The future land use plan element shall include criteria to be used to achieve the compatibility
28 of adjacent or closely proximate lands with military installations.
- 29 5. In addition, for rural communities, the amount of land designated for future planned industrial
30 use shall be based upon surveys, and studies that reflect the need for job creation, capital
31 investment, and the necessity to strengthen and diversify the local economies, and shall not be
32 limited solely by the projected population of the rural community.
- 33 6. The future land use plan of a county may also designate areas for possible future municipal
34 incorporation.
- 35 7. The land use maps or map series shall generally identify and depict historic district
36 boundaries and shall designate historically significant properties meriting protection.
- 37 8. For coastal counties, the future land use element must include, without limitation, regulatory
38 incentives and criteria that encourage the preservation of recreational and commercial working
39 waterfronts as defined in s. 342.07.
- 40 9. The future land use element must clearly identify the land use categories in which public
41 schools are an allowable use. When delineating the land use categories in which public schools
42 are an allowable use, a local government shall include in the categories sufficient land proximate
43 to residential development to meet the projected needs for schools in coordination with public
44 school boards and may establish differing criteria for schools of different type or size. Each local
45 government shall include lands contiguous to existing school sites, to the maximum extent
46 possible, within the land use categories in which public schools are an allowable use. The failure
47 by a local government to comply with these school siting requirements will result in the
48 prohibition of the local government's ability to amend the local comprehensive plan, except for
49 plan amendments described in s. 163.3187(1)(b), until the school siting requirements are met.
50 Amendments proposed by a local government for purposes of identifying the land use categories
51 in which public schools are an allowable use are exempt from the limitation on the frequency of
52 plan amendments contained in s. 163.3187. The future land use element shall include criteria that
53 encourage the location of schools proximate to urban residential areas to the extent possible and
54 shall require that the local government seek to collocate public facilities, such as parks, libraries,

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55 and community centers, with schools to the extent possible and to encourage the use of
56 elementary schools as focal points for neighborhoods. For schools serving predominantly rural
57 counties, defined as a county with a population of 100,000 or fewer, an agricultural land use
58 category shall be eligible for the location of public school facilities if the local comprehensive
59 plan contains school siting criteria and the location is consistent with such criteria.

60 10. Local governments required to update or amend their comprehensive plan to include criteria
61 and address compatibility of adjacent or closely proximate lands with existing military
62 installations in their future land use plan element shall transmit the update or amendment to the
63 department by June 30, 2006.

64
65 163.3177(10)(i) The Legislature recognizes that due to varying local conditions, governments in
66 Florida have different planning needs that cannot be addressed by one uniform set of minimum
67 planning criteria. Therefore, the state land planning agency may amend chapter 9J-5, Florida
68 Administrative Code, to establish different minimum criteria that will be applicable to local
69 governments based on the following factors:

- 70
71 1. current and projected population;
72 2. size of the local jurisdiction;
73 3. amount and nature of undeveloped land; and
74 4. the scale of public services provided by the local government.
75

76 The state land planning agency ~~department~~ shall take into account the factors delineated in rule
77 9J-5.002(2), Florida Administrative Code, as it provides assistance to local governments and
78 applies the rule in specific situations with regard to the detail of the data and analysis required.

79 ~~163.3177(13) Local governments are encouraged to develop a community vision that provides~~
80 ~~for sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the~~
81 ~~request of a local government, the applicable regional planning council shall provide assistance~~
82 ~~in the development of a community vision.~~

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83 ~~(a) As part of the process of developing a community vision under this section, the local~~
84 ~~government must hold two public meetings with at least one of those meetings before the local~~
85 ~~planning agency. Before those public meetings, the local government must hold at least one~~
86 ~~public workshop with stakeholder groups such as neighborhood associations, community~~
87 ~~organizations, businesses, private property owners, housing and development interests, and~~
88 ~~environmental organizations.~~

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

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

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

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

95 ~~4. Appropriate areas and standards for mixed use development;~~

96 ~~5. Appropriate areas and standards for high density commercial and residential development;~~

97 ~~6. Appropriate areas and standards for economic development opportunities and employment~~
98 ~~centers;~~

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

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

101 ~~9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs~~
102 ~~1-8.~~

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

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- 105 ~~1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a~~
106 ~~healthy agricultural economy, including innovative planning and development strategies, such as~~
107 ~~the transfer of development rights;~~
- 108 ~~2. Incentives for mixed use development, including increased height and intensity standards for~~
109 ~~buildings that provide residential use in combination with office or commercial space;~~
- 110 ~~3. Incentives for workforce housing;~~
- 111 ~~4. Designation of an urban service boundary pursuant to subsection (2); and~~
- 112 ~~5. Strategies to provide mobility within the community and to protect the Strategic Intermodal~~
113 ~~System, including the development of a transportation corridor management plan under s.~~
114 ~~337.273.~~
- 115 ~~(d) The community vision must reflect the community's shared concept for growth and~~
116 ~~development of the community, including visual representations depicting the desired land use~~
117 ~~patterns and character of the community during a 10 year planning timeframe. The community~~
118 ~~vision must also take into consideration economic viability of the vision and private property~~
119 ~~interests.~~
- 120 ~~(e) After the workshops and public meetings required under paragraph (a) are held, the local~~
121 ~~government may amend its comprehensive plan to include the community vision as a component~~
122 ~~in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in~~
123 ~~ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in~~
124 ~~paragraph (a).~~
- 125 ~~(f) Amendments submitted under this subsection are exempt from the limitation on the~~
126 ~~frequency of plan amendments in s. 163.3187.~~
- 127 ~~(g) A local government that has developed a community vision or completed a visioning process~~
128 ~~after July 1, 2000, and before July 1, 2005, which substantially accomplishes the goals set forth~~
129 ~~in this subsection and the appropriate goals, policies, or objectives have been adopted as part of~~
130 ~~the comprehensive plan or reflected in subsequently adopted land development regulations and~~

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131 ~~the plan amendment incorporating the community vision as a component has been found in~~
132 ~~compliance is eligible for the incentives in s. 163.3184(17).~~

133

134 ~~163.3177 (14) Local governments are also encouraged to designate an urban service boundary.~~
135 ~~This area must be appropriate for compact, contiguous urban development within a 10 year~~
136 ~~planning timeframe. The urban service area boundary must be identified on the future land use~~
137 ~~map or map series. The local government shall demonstrate that the land included within the~~
138 ~~urban service boundary is served or is planned to be served with adequate public facilities and~~
139 ~~services based on the local government's adopted level of service standards by adopting a 10-~~
140 ~~year facilities plan in the capital improvements element which is financially feasible. The local~~
141 ~~government shall demonstrate that the amount of land within the urban service boundary does~~
142 ~~not exceed the amount of land needed to accommodate the projected population growth at~~
143 ~~densities consistent with the adopted comprehensive plan within the 10 year planning timeframe.~~

144 ~~(a) As part of the process of establishing an urban service boundary, the local government must~~
145 ~~hold two public meetings with at least one of those meetings before the local planning agency.~~
146 ~~Before those public meetings, the local government must hold at least one public workshop with~~
147 ~~stakeholder groups such as neighborhood associations, community organizations, businesses,~~
148 ~~private property owners, housing and development interests, and environmental organizations.~~

149 ~~(b)1. After the workshops and public meetings required under paragraph (a) are held, the local~~
150 ~~government may amend its comprehensive plan to include the urban service boundary. This plan~~
151 ~~amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and~~
152 ~~163.3189 at meetings of the governing body other than those required under paragraph (a).~~

153 ~~2. This subsection does not prohibit new development outside an urban service boundary.~~
154 ~~However, a local government that establishes an urban service boundary under this subsection is~~
155 ~~encouraged to require a full cost accounting analysis for any new development outside the~~
156 ~~boundary and to consider the results of that analysis when adopting a plan amendment for~~
157 ~~property outside the established urban service boundary.~~

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

160 ~~(d) A local government that has adopted an urban service boundary before July 1, 2005, which~~
161 ~~substantially accomplishes the goals set forth in this subsection is not required to comply with~~
162 ~~paragraph (a) or subparagraph 1. of paragraph (b) in order to be eligible for the incentives under~~
163 ~~s. 163.3184(17). In order to satisfy the provisions of this paragraph, the local government must~~
164 ~~secure a determination from the state land planning agency that the urban service boundary~~
165 ~~adopted before July 1, 2005, substantially complies with the criteria of this subsection, based on~~
166 ~~data and analysis submitted by the local government to support this determination. The~~
167 ~~determination by the state land planning agency is not subject to administrative challenge.~~

168 163.3246 Local government comprehensive planning certification program.--

169 (1) The Legislature finds that There is created the Local Government Comprehensive Planning
170 Certification Program has had a low level of interest from and participation by local
171 governments. New approaches, such as the Alternative State Review Process Pilot Program,
172 provide a more effective approach to expediting and streamlining comprehensive plan
173 amendment review. Therefore, the Local Government Comprehensive Planning Certification
174 Program is discontinued and no more local governments may be certified. The Cities of
175 Freeport, Lakeland, Miramar, and Orlando may continue to adopt amendments in accordance
176 with this section and their certification agreement or certification notice. to be administered by
177 the Department of Community Affairs. The purpose of the program is to create a certification
178 process for local governments who identify a geographic area for certification within which they
179 commit to directing growth and who, because of a demonstrated record of effectively adopting,
180 implementing, and enforcing its comprehensive plan, the level of technical planning experience
181 exhibited by the local government, and a commitment to implement exemplary planning
182 practices, require less state and regional oversight of the comprehensive plan amendment
183 process. The purpose of the certification area is to designate areas that are contiguous, compact,
184 and appropriate for urban growth and development within a 10-year planning timeframe.
185 Municipalities and counties are encouraged to jointly establish the certification area, and
186 subsequently enter into joint certification agreement with the department.

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- 187 ~~(2) In order to be eligible for certification under the program, the local government must:~~
- 188 ~~(a) Demonstrate a record of effectively adopting, implementing, and enforcing its~~
189 ~~comprehensive plan;~~
- 190 ~~(b) Demonstrate technical, financial, and administrative expertise to implement the provisions of~~
191 ~~this part without state oversight;~~
- 192 ~~(c) Obtain comments from the state and regional review agencies regarding the appropriateness~~
193 ~~of the proposed certification;~~
- 194 ~~(d) Hold at least one public hearing soliciting public input concerning the local government's~~
195 ~~proposal for certification; and~~
- 196 ~~(e) Demonstrate that it has adopted programs in its local comprehensive plan and land~~
197 ~~development regulations which:~~
- 198 ~~1. Promote infill development and redevelopment, including prioritized and timely permitting~~
199 ~~processes in which applications for local development permits within the certification area are~~
200 ~~acted upon expeditiously for proposed development that is consistent with the local~~
201 ~~comprehensive plan.~~
- 202 ~~2. Promote the development of housing for low income and very low income households or~~
203 ~~specialized housing to assist elderly and disabled persons to remain at home or in independent~~
204 ~~living arrangements.~~
- 205 ~~3. Achieve effective intergovernmental coordination and address the extrajurisdictional effects~~
206 ~~of development within the certified area.~~
- 207 ~~4. Promote economic diversity and growth while encouraging the retention of rural character,~~
208 ~~where rural areas exist, and the protection and restoration of the environment.~~
- 209 ~~5. Provide and maintain public urban and rural open space and recreational opportunities.~~

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- 210 ~~6. Manage transportation and land uses to support public transit and promote opportunities for~~
211 ~~pedestrian and nonmotorized transportation.~~
- 212 ~~7. Use design principles to foster individual community identity, create a sense of place, and~~
213 ~~promote pedestrian-oriented safe neighborhoods and town centers.~~
- 214 ~~8. Redevelop blighted areas.~~
- 215 ~~9. Adopt a local mitigation strategy and have programs to improve disaster preparedness and the~~
216 ~~ability to protect lives and property, especially in coastal high hazard areas.~~
- 217 ~~10. Encourage clustered, mixed-use development that incorporates greenspace and residential~~
218 ~~development within walking distance of commercial development.~~
- 219 ~~11. Encourage urban infill at appropriate densities and intensities and separate urban and rural~~
220 ~~uses and discourage urban sprawl while preserving public open space and planning for buffer-~~
221 ~~type land uses and rural development consistent with their respective character along and outside~~
222 ~~the certification area.~~
- 223 ~~12. Assure protection of key natural areas and agricultural lands that are identified using state~~
224 ~~and local inventories of natural areas. Key natural areas include, but are not limited to:~~
- 225 ~~a. Wildlife corridors.~~
- 226 ~~b. Lands with high native biological diversity, important areas for threatened and endangered~~
227 ~~species, species of special concern, migratory bird habitat, and intact natural communities.~~
- 228 ~~c. Significant surface waters and springs, aquatic preserves, wetlands, and outstanding Florida~~
229 ~~waters.~~
- 230 ~~d. Water resources suitable for preservation of natural systems and for water resource~~
231 ~~development.~~
- 232 ~~e. Representative and rare native Florida natural systems.~~

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- 233 | ~~13. Ensure the cost efficient provision of public infrastructure and services.~~
- 234 | ~~(3) Portions of local governments located within areas of critical state concern cannot be~~
235 | ~~included in a certification area.~~
- 236 | ~~(4) A local government or group of local governments seeking certification of all or part of a~~
237 | ~~jurisdiction or jurisdictions must submit an application to the department which demonstrates~~
238 | ~~that the area sought to be certified meets the criteria of subsections (2) and (5). The application~~
239 | ~~shall include copies of the applicable local government comprehensive plan, land development~~
240 | ~~regulations, interlocal agreements, and other relevant information supporting the eligibility~~
241 | ~~criteria for designation. Upon receipt of a complete application, the department must provide the~~
242 | ~~local government with an initial response to the application within 90 days after receipt of the~~
243 | ~~application.~~
- 244 | ~~(5) If the local government meets the eligibility criteria of subsection (2), the department shall~~
245 | ~~certify all or part of a local government by written agreement, which shall be considered final~~
246 | ~~agency action subject to challenge under s. 120.569. The agreement or notice must include the~~
247 | ~~following components:~~
- 248 | (a) The basis for certification.
- 249 | (b) The boundary of the certification area, which encompasses areas that are contiguous,
250 | compact, appropriate for urban growth and development, and in which public infrastructure is
251 | existing or planned within a 10-year planning timeframe. The certification area is required to
252 | include sufficient land to accommodate projected population growth, housing demand, including
253 | choice in housing types and affordability, job growth and employment, appropriate densities and
254 | intensities of use to be achieved in new development and redevelopment, existing or planned
255 | infrastructure, including transportation and central water and sewer facilities. The certification
256 | area must be adopted as part of the local government's comprehensive plan.
- 257 | (c) A demonstration that the capital improvements plan governing the certified area is updated
258 | annually.
- 259 | (d) A visioning plan or a schedule for the development of a visioning plan.

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260 (e) A description of baseline conditions related to the evaluation criteria in paragraph (g) in the
261 certified area.

262 (f) A work program setting forth specific planning strategies and projects that will be
263 undertaken to achieve improvement in the baseline conditions as measured by the criteria
264 identified in paragraph (g).

265 (g) Criteria to evaluate the effectiveness of the certification process in achieving the community-
266 development goals for the certification area including:

267 1. Measuring the compactness of growth, expressed as the ratio between population growth and
268 land consumed;

269 2. Increasing residential density and intensities of use;

270 3. Measuring and reducing vehicle miles traveled and increasing the interconnectedness of the
271 street system, pedestrian access, and mass transit;

272 4. Measuring the balance between the location of jobs and housing;

273 5. Improving the housing mix within the certification area, including the provision of mixed-use
274 neighborhoods, affordable housing, and the creation of an affordable housing program if such a
275 program is not already in place;

276 6. Promoting mixed-use developments as an alternative to single-purpose centers;

277 7. Promoting clustered development having dedicated open space;

278 8. Linking commercial, educational, and recreational uses directly to residential growth;

279 9. Reducing per capita water and energy consumption;

280 10. Prioritizing environmental features to be protected and adopting measures or programs to
281 protect identified features;

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- 282 11. Reducing hurricane shelter deficits and evacuation times and implementing the adopted
283 mitigation strategies; and
- 284 12. Improving coordination between the local government and school board.
- 285 (h) A commitment to change any land development regulations that restrict compact
286 development and adopt alternative design codes that encourage desirable densities and intensities
287 of use and patterns of compact development identified in the agreement.
- 288 (i) A plan for increasing public participation in comprehensive planning and land use
289 decisionmaking which includes outreach to neighborhood and civic associations through
290 community planning initiatives.
- 291 (j) A demonstration that the intergovernmental coordination element of the local government's
292 comprehensive plan includes joint processes for coordination between the school board and local
293 government pursuant to s. 163.3177(6)(h)2. and other requirements of law.
- 294 (k) A method of addressing the extrajurisdictional effects of development within the certified
295 area which is integrated by amendment into the intergovernmental coordination element of the
296 local government comprehensive plan.
- 297 (l) A requirement for the annual reporting to the department of plan amendments adopted during
298 the year, and the progress of the local government in meeting the terms and conditions of the
299 certification agreement. Prior to the deadline for the annual report, the local government must
300 hold a public hearing soliciting public input on the progress of the local government in satisfying
301 the terms of the certification agreement.
- 302 (m) An expiration date that is no later than 10 years after execution of the agreement.
- 303 ~~(6) The department may enter up to eight new certification agreements each fiscal year. The~~
304 ~~department shall adopt procedural rules governing the application and review of local~~
305 ~~government requests for certification. Such procedural rules may establish a phased schedule for~~
306 ~~review of local government requests for certification.~~

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307 ~~(2) (7)~~ The department shall revoke the local government's certification if it determines that the
308 local government is not substantially complying with the terms of the agreement.

309 (3) (8) An affected person, as defined by s. 163.3184(1)(a), may petition for administrative
310 hearing alleging that a local government is not substantially complying with the terms of the
311 agreement, using the procedures and timeframes for notice and conditions precedent described in
312 s. 163.3213. Such a petition must be filed within 30 days after the annual public hearing required
313 by paragraph (5)(l).

314 (4) (9)(a) ~~Upon certification a~~All comprehensive plan amendments associated with the area
315 certified must be adopted and reviewed in the manner described in ss. 163.3184(1), (2), (7), (14),
316 (15), and (16) and 163.3187, such that state and regional agency review is eliminated. The
317 department may not issue any objections, recommendations, and comments report on proposed
318 plan amendments or a notice of intent on adopted plan amendments; however, affected persons,
319 as defined by s. 163.3184(1)(a), may file a petition for administrative review pursuant to the
320 requirements of s. 163.3187(3)(a) to challenge the compliance of an adopted plan amendment.

321 (b) Plan amendments that change the boundaries of the certification area; propose a rural land
322 stewardship area pursuant to s. 163.3177(11)(d); propose an optional sector plan pursuant to s.
323 163.3245; propose a school facilities element; update a comprehensive plan based on an
324 evaluation and appraisal report; impact lands outside the certification boundary; implement new
325 statutory requirements that require specific comprehensive plan amendments; or increase
326 hurricane evacuation times or the need for shelter capacity on lands within the coastal high-
327 hazard area shall be reviewed pursuant to ss. 163.3184 and 163.3187.

328 ~~(10) Notwithstanding subsections (2), (4), (5), (6), and (7), any municipality designated as a~~
329 ~~rural area of critical economic concern pursuant to s. 288.0656 which is located within a county~~
330 ~~eligible to levy the Small County Surtax under s. 212.055(3) shall be considered certified during~~
331 ~~the effectiveness of the designation of rural area of critical economic concern. The state land~~
332 ~~planning agency shall provide a written notice of certification to the local government of the~~
333 ~~certified area, which shall be considered final agency action subject to challenge under s.~~
334 ~~120.569. The notice of certification shall include the following components:~~

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- 335 ~~(a) The boundary of the certification area.~~
- 336 ~~(b) A requirement that the local government submit either an annual or biennial monitoring~~
337 ~~report to the state land planning agency according to the schedule provided in the written notice.~~
338 ~~The monitoring report shall, at a minimum, include the number of amendments to the~~
339 ~~comprehensive plan adopted by the local government, the number of plan amendments~~
340 ~~challenged by an affected person, and the disposition of those challenges.~~
- 341 ~~(11) If the local government of an area described in subsection (10) does not request that the~~
342 ~~state land planning agency review the developments of regional impact that are proposed within~~
343 ~~the certified area, an application for approval of a development order within the certified area~~
344 ~~shall be exempt from review under s. 380.06, subject to the following:~~
- 345 ~~(a) Concurrent with filing an application for development approval with the local government, a~~
346 ~~developer proposing a project that would have been subject to review pursuant to s. 380.06 shall~~
347 ~~notify in writing the regional planning council with jurisdiction.~~
- 348 ~~(b) The regional planning council shall coordinate with the developer and the local government~~
349 ~~to ensure that all concurrency requirements as well as federal, state, and local environmental~~
350 ~~permit requirements are met.~~
- 351 (5) ~~(12)~~ A local government's certification shall be reviewed by the local government and the
352 department as part of the evaluation and appraisal process pursuant to s. 163.3191. Within 1 year
353 after the deadline for the local government to update its comprehensive plan based on the
354 evaluation and appraisal report, the department shall renew or revoke the certification. The local
355 government's failure to adopt a timely evaluation and appraisal report, failure to adopt an
356 evaluation and appraisal report found to be sufficient, or failure to timely adopt amendments
357 based on an evaluation and appraisal report found to be in compliance by the department shall be
358 cause for revoking the certification agreement. The department's decision to renew or revoke
359 shall be considered agency action subject to challenge under s. 120.569.
- 360 ~~(13) The department shall, by July 1 of each odd-numbered year, submit to the Governor, the~~
361 ~~President of the Senate, and the Speaker of the House of Representatives a report listing certified~~

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362 ~~local governments, evaluating the effectiveness of the certification, and including any~~
363 ~~recommendations for legislative actions.~~

364 ~~(14) The Office of Program Policy Analysis and Government Accountability shall prepare a~~
365 ~~report evaluating the certification program, which shall be submitted to the Governor, the~~
366 ~~President of the Senate, and the Speaker of the House of Representatives by December 1, 2007.~~

367
368 ~~163.3177(17) COMMUNITY VISION AND URBAN BOUNDARY PLAN AMENDMENTS.—~~
369 ~~A local government that has adopted a community vision and urban service boundary under s.~~
370 ~~163.3177(13) and (14) may adopt a plan amendment related to map amendments solely to~~
371 ~~property within an urban service boundary in the manner described in subsections (1), (2), (7),~~
372 ~~(14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional~~
373 ~~agency review is eliminated. The department may not issue an objections, recommendations, and~~
374 ~~comments report on proposed plan amendments or a notice of intent on adopted plan~~
375 ~~amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for~~
376 ~~administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the~~
377 ~~compliance of an adopted plan amendment. This subsection does not apply to any amendment~~
378 ~~within an area of critical state concern, to any amendment that increases residential densities~~
379 ~~allowable in high hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the~~
380 ~~goals, policies, or objectives of the local government's comprehensive plan. Amendments~~
381 ~~submitted under this subsection are exempt from the limitation on the frequency of plan~~
382 ~~amendments in s. 163.3187.~~

383
384 1002.33(18)(c) FACILITIES. Any facility, or portion thereof, used to house a charter school
385 whose charter has been approved by the sponsor and the governing board, pursuant to subsection
386 (7), shall be exempt from ad valorem taxes pursuant to s. 196.1983. Library, community service,
387 museum, performing arts, theatre, cinema, church, community college, college, and university
388 facilities may provide space to charter schools within their facilities ~~under their preexisting~~
389 ~~zoning and land use designations~~ if such use is consistent with the local comprehensive plan.

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390

391

FRCA BILL REPORT
MARCH 10, 2008

FRCA 2008-03-10

Sorted by Bill Number

- ENRC2 Relating to Fish & Wildlife Conservation Commission** Environment & Natural Resources Council
PCB ENRC 08-02, rewrite of Chapters 370 and 372, F.S., relating to Fish & Wildlife Conservation Commission.
3/3/2008 HOUSE On Committee agenda - Conservation & State Lands, 03/05/08, 11:00 am, 216 C - Workshop
3/5/2008 HOUSE Workshopped by Conservation & State Lands
3/10/2008 HOUSE On Committee agenda - Conservation & State Lands, 03/12/08, 3:45 pm, 216 C - Workshop
- GEAC13 Relating to Administrative Procedures** Government Efficiency & Accountability Council
PCB GEAC 08-13 - Administrative Procedures
2/13/2008 HOUSE Filed; On Committee agenda - Audit & Performance, 02/20/08, 2:30 pm, 404 H - Workshop
2/20/2008 HOUSE Workshopped by Audit & Performance
- GEAC15 Relating to Acquisition of State and State-owned Lands** Government Efficiency & Accountability Council
PCB GEAC 08-15 - Acquisition of State and State-owned Lands
2/20/2008 HOUSE Workshopped by Audit & Performance
3/3/2008 HOUSE On Council agenda - Government Efficiency & Accountability Council, 03/05/08, 10:15 am, Morris Hall
3/5/2008 HOUSE Submitted as Council Bill by Government Efficiency & Accountability Council
- HB 0005 Relating to Distribution of Proceeds from Excise Taxes on Documents** Saunders (R)
Distribution of Proceeds from Excise Taxes on Documents: Removes a limitation on amount of proceeds which may be deposited into State Housing Trust Fund on or after specified date. Effective Date: July 1, 2008.
5/23/2007 HOUSE Filed
9/10/2007 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- Compare**
-
- [SB 0080](#) Relating to Documents Excise Tax Distribution/State Housing TF
11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations
- Identical**
-
- [SB 0074](#) Relating to Documents Excise Taxes/State Housing Trust Fund
11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations
- HB 0031 Relating to Springs Protection** Boyd
Springs Protection: Creates pt. IV of ch. 369, F.S., entitled "Springs Protection"; establishes Florida Springs Stewardship Task Force; provides task force membership & duties; requires report to Governor & Legislature; provides for expiration of task force. Effective Date: July 1, 2008.
7/18/2007 HOUSE Filed
9/10/2007 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
10/16/2007 HOUSE Referred to Committee on Conservation & State Lands by Environment & Natural Resources Council
- Identical**
-
- [SB 2078](#) Relating to Florida Springs Stewardship Act
3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations

HB 0037 Relating to Contracting for Efficiency or Conservation Measures by State Agencies McKeel
 Contracting for Efficiency or Conservation Measures by State Agencies: Includes water & wastewater efficiency & conservation in measures encouraged by Legislature; provides for inclusion of water & wastewater efficiency & conservation measures in guaranteed performance savings contracts entered into by state agencies, municipalities, or political subdivisions. Effective Date: July 1, 2008.
 1/2/2008 HOUSE On Committee agenda - Audit & Performance, 01/09/08, 1:00pm, 404 H
 1/9/2008 HOUSE Favorable by Audit & Performance; 6 Yeas, 0 Nays; Now in Government Efficiency & Accountability Council
 3/10/2008 HOUSE On Council agenda - Government Efficiency & Accountability Council, 03/12/08, 2:10 pm, Morris Hall

HB 0063 Relating to Community Redevelopment Areas Scionti
 Community Redevelopment Areas: Authorizes counties & municipalities to use ad valorem tax revenues for law enforcement, fire rescue, or emergency medical services in community redevelopment areas. Effective Date: July 1, 2008.
 8/6/2007 HOUSE Filed
 9/10/2007 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
 11/29/2007 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

Similar

[SB 0360](#) Relating to Community Redevelopment Areas/Ad Valorem Taxes
 11/28/2007 SENATE Referred to Community Affairs; Finance and Tax

SB 0074 Relating to Documents Excise Taxes/State Housing Trust Fund Geller
 Documents Excise Taxes/State Housing Trust Fund [RPCC]; Removes a limitation on the amount of proceeds from excise taxes on documents which may be deposited into the State Housing Trust Fund on or after a specified date, etc. EFFECTIVE DATE: 07/01/2008.
 9/6/2007 SENATE Filed
 11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

Compare

[SB 0080](#) Relating to Documents Excise Tax Distribution/State Housing TF
 11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

Identical

[HB 0005](#) Relating to Distribution of Proceeds from Excise Taxes on Documents
 1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

HB 0079 Relating to Advisory Committee on State Procurement Anderson
 Advisory Committee on State Procurement: Establishes Advisory Committee on State Procurement for purpose of evaluating state procurement process & carrying out legislative policy created under act; provides policy of Legislature with respect to procurement of goods, services, & facilities by state; provides for membership, organization, powers, duties, & reports of committee; requires state agency cooperation with committee; provides for termination of committee; provides appropriation. Effective Date: July 1, 2008.
 8/21/2007 HOUSE Filed
 9/10/2007 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
 11/29/2007 HOUSE Referred to Committee on Audit & Performance by Government Efficiency & Accountability Council

Similar

[SB 0216](#) Relating to State Procurement Advisory Committee

11/28/2007 SENATE Referred to Governmental Operations; General Government Appropriations

SB 0080 Relating to Documents Excise Tax Distribution/State Housing Wilson
TF

Documents Excise Tax Distribution/State Housing TF [RPCC]; Revises provisions governing the distribution of a portion of the proceeds of the excise tax on documents to the State Housing Trust Fund. Provides for the annual appropriation of at least 90 percent of the tax proceeds distributed to the trust fund to provide affordable housing units and other purposes for which the trust fund was created, etc. EFFECTIVE DATE: 07/01/2008.

9/6/2007 SENATE Filed

11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

Compare

[HB 0005](#) Relating to Distribution of Proceeds from Excise Taxes on Documents

1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

[SB 0074](#) Relating to Documents Excise Taxes/State Housing Trust Fund

11/28/2007 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

SB 0084 Relating to Outdoor Recreation/Local Govts. Project Grants Saunders (B)

Outdoor Recreation/Local Govts. Project Grants [RPCC]; Increases up to three the number of grant applications a local government may submit to the Department of Environmental Protection under the Florida Recreation Development Assistance Program. Increases up to four the number of active projects expending grant funds during any state fiscal year. Increases the maximum amount, not to exceed \$500,000, of a project grant which may be awarded to a local government under the program, etc. EFFECTIVE DATE: Upon becoming law.

9/6/2007 SENATE Filed

11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations

SB 0086 Relating to Sales Tax Exemption/Hurricane Preparedness Items Baker

Sales Tax Exemption/Hurricane Preparedness Items [LPCC]; Provides an exemption from the sales and use tax for sales of certain tangible personal property related to hurricane preparedness from June 1, 2008, through June 12, 2008, with exceptions being made for sales within public lodging establishments, theme parks, entertainment complexes, or airports. APPROPRIATION: \$289,100. EFFECTIVE DATE: Upon becoming law.

11/28/2007 SENATE Referred to Military Affairs and Domestic Security; Finance and Tax; General Government Appropriations

1/23/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 01/25/08, 9:00 am, 301 C (No Votes Will Be Taken)

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Similar

[HB 0111](#) Relating to Hurricane Preparedness

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

HB 0097 Relating to State Government Websites Scionti

State Government Websites: Expands AEIT duties to include strategies for providing information on state Internet portal in English & Spanish by time certain & strategies & timeframes for phasing in deployment of information on state government websites in English & Spanish; requires information on state Internet portal & state government websites to be in English & Spanish by time certain. Effective Date: October 1, 2008.

9/17/2007 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council

11/29/2007 HOUSE Referred to Committee on Audit & Performance by Government Efficiency & Accountability Council

2/29/2008 HOUSE Withdrawn prior to introduction

SB 0106 Relating to FRS/Special Risk Class Credit Purchase Fasano
FRS/Special Risk Class Credit Purchase [RPCC]; Authorizes law enforcement or correctional officers who have earned creditable service in the Regular Class of the FRS between July 1, 1978, and June 30, 1984, while attending a certified training academy or other certified training facility approved by the employer for certification, to purchase such service in order to upgrade prior service to Special Risk Class, etc. EFFECTIVE DATE: 07/01/2008.
9/6/2007 SENATE Filed
11/28/2007 SENATE Referred to Community Affairs; Governmental Operations; General Government Appropriations

Similar

[HB 0379](#) Relating to Florida Retirement System
1/23/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

HB 0111 Relating to Hurricane Preparedness Nehr
Hurricane Preparedness: Provides exemption from sales & use tax for sales of specified tangible personal property during June 1-12, 2008; provides exceptions for sales within public lodging establishments, theme parks, entertainment complexes, or airports; provides appropriation. Effective Date: Upon Becoming a Law.
1/23/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 01/25/08, 9:00 am, 301 C (No Votes Will Be Taken)
1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Similar

[SB 0086](#) Relating to Sales Tax Exemption/Hurricane Preparedness Items
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

HB 0147 Relating to Expedited Permitting Process for Economic Development Projects Schenck
Expedited Permitting Process for Economic Development Projects: Designates act "Mike McHugh Act"; requires DEP & water management districts to adopt programs to expedite processing of permits for certain economic development projects; requires municipalities & counties to identify certain businesses by commission resolution; provides timeframe for permit application approval or denial. Effective Date: July 1, 2008.
3/3/2008 HOUSE On Council agenda - Environment & Natural Resources Council, 03/05/08, 9:00 am, 404 H
3/5/2008 HOUSE Favorable with CS by Environment & Natural Resources Council; 12 Yeas, 1 Nay
3/10/2008 HOUSE Committee Substitute (C1) Filed; Now in Policy & Budget Council; On Council agenda - Policy & Budget Council, 03/11/08, 1:00 pm, 212 K

Compare

[SB 0402](#) Relating to Target Industry Businesses/Expedited Permitting
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Commerce; General Government Appropriations

HB 0179 Relating to Placement of Vessels in State or Federal Waters Seaward of the State to Form Artificial Reefs Holder
Placement of Vessels in State or Federal Waters Seaward of the State to Form Artificial Reefs: Provides legislative findings with respect to state's artificial reef program; authorizes planning & development of statewide matching grant program to secure & place U.S. Maritime Administration & U.S. Navy decommissioned vessels in specified waters as

artificial reefs; provides for administration of program by FWCC; provides for implementation of program subject to appropriations; provides objectives of program; provides for establishment of Florida Ships-2-Reefs Program by FWCC; provides purposes of program; specifies percentage of state matching grant; provides procedures & requirements with respect to program; authorizes FWCC to adopt rules; provides for reports; authorizes provision of funds under program contingent upon appropriation. Effective Date: Not Specified

10/16/2007 HOUSE Referred to Committee on Conservation & State Lands by Environment & Natural Resources Council

12/5/2007 HOUSE On Committee agenda - Conservation & State Lands, 12/12/07, 8:00 am, 216 C

12/12/2007 HOUSE Favorable by Conservation & State Lands; 8 Yeas, 0 Nays; Now in Environment & Natural Resources Council

Identical

[SB 0432](#) Relating to Artificial Reefs/Placement of Vessels

3/10/2008 SENATE Now in Community Affairs

HB 0181 Relating to State and Local Government Spending Harrell

State and Local Government Spending: Requires DOS to create & manage free website disclosing certain spending by state & local governmental entities under certain contracts; provides requirements concerning content of website; provides exemption for public records that are not subject to disclosure. Effective Date: July 1, 2008.

11/29/2007 HOUSE Referred to Committee on Audit & Performance by Government Efficiency & Accountability Council

1/2/2008 HOUSE On Committee agenda - Audit & Performance, 01/09/08, 1:00pm, 404 H

1/9/2008 HOUSE Favorable with Amendment(s) by Audit & Performance; 6 Yeas, 0 Nays; Now in Government Efficiency & Accountability Council

Similar

[SB 0392](#) Relating to State and Local Govt. Spending Disclosure/Website

12/13/2007 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

HB 0199 Relating to Desalination Technology Kelly

Desalination Technology: Directs Secretary of Environmental Protection to coordinate with WMDs to conduct study of certain desalination technologies & provide report to Governor & Legislature. Effective Date: July 1, 2008.

1/22/2008 HOUSE Now in Environment & Natural Resources Council

3/3/2008 HOUSE On Council agenda - Environment & Natural Resources Council, 03/05/08, 9:00 am, 404 H

3/5/2008 HOUSE Favorable by Environment & Natural Resources Council; 15 Yeas, 0 Nays; Now in Policy & Budget Council

Identical

[SB 0708](#) Relating to Desalination Technology Study

1/9/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations

HB 0211 Relating to Special Districts Machek

Special Districts: Authorizes special districts to purchase commodities & contractual services from purchasing agreements of other special districts, municipalities, or counties. Effective Date: upon becoming a law.

1/30/2008 HOUSE On Committee agenda - Urban & Local Affairs, 02/06/08, 1:00 pm, 306 H

2/6/2008 HOUSE Favorable by Urban & Local Affairs; 7 Yeas, 0 Nays

2/7/2008 HOUSE Now in Government Efficiency & Accountability Council

Identical

[SB 2710](#) Relating to Special Districts

3/3/2008 SENATE Filed

SB 0216 Relating to State Procurement Advisory Committee Fasano

State Procurement Advisory Committee [RPCC]; Establishes the Advisory Committee on State Procurement for the purpose of evaluating the entire state procurement process, and

carrying out the policy of the Legislature. Provides that it is the policy of the Legislature to promote economy, efficiency, and effectiveness in the procurement of goods, services, and facilities by and for the executive branch of state government. Requires state agency cooperation with the committee, etc. APPROPRIATION: \$4,000,000. EFFECTIVE DATE: 07/01/2008.

9/7/2007 SENATE Filed

11/28/2007 SENATE Referred to Governmental Operations; General Government Appropriations

Similar

[HB 0079](#) Relating to Advisory Committee on State Procurement

11/29/2007 HOUSE Referred to Committee on Audit & Performance by Government Efficiency & Accountability Council

HB 0221 Relating to Protection of Florida Coastline Against Oil and Gas Drilling Richter

Protection of Florida Coastline Against Oil and Gas Drilling: Urges U.S. Congress to stand strong & united against any attempt to allow oil or gas drilling along Florida's coastline.

Effective Date: Not Specified

12/13/2007 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

2/13/2008 HOUSE On Committee agenda - Energy, 02/20/08, 8:00 am, Morris Hall

2/20/2008 HOUSE Temporarily postponed by Energy

Similar

[SB 0426](#) Relating to Oil and Gas Drilling/Florida Coastline

12/13/2007 SENATE Referred to Environmental Preservation and Conservation

HB 0229 Relating to Tax Credits for Renewable Energy Technologies Sachs

Tax Credits for Renewable Energy Technologies: Revises provisions of renewable energy source exemption; excludes assessed value of specified real property for purposes of determining such exemption; redefines term "ethanol" for purposes of sales tax exemption provided for renewable energy technologies; specifies eligible items as limited to one refund; requires purchaser who receives refund to notify subsequent purchaser of such refund; provides for transferability of renewable energy technologies investment tax credit; provides that taxpayer's use of specified credits does not prohibit use of other authorized credits. Effective Date: July 1, 2008.

12/13/2007 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

Compare

[SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0310](#) Relating to Biomass Energy Production

3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[HB 1165](#) Relating to Renewable Energy

HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
3/7/2008

[SB 2250](#) Relating to Renewable Energy

SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

Similar

[SB 0314](#) Relating to Renewable Energy Technologies Tax Credits

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

HB 0245 Relating to My Safe Florida Home Program Sands
My Safe Florida Home Program: Provides that specified applicants for program grants need not comply with specified earlier eligibility requirements. Effective Date: July 1, 2008.
11/8/2007 HOUSE Filed
12/12/2007 HOUSE Referred to Jobs & Entrepreneurship Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Insurance by Jobs & Entrepreneurship Council

HB 0289 Relating to State Parks Soto
State Parks: Provides free admission to state parks on state & federal holidays for persons serving in U.S. Armed Forces, persons who are veterans, & spouses & minor children of such persons. Effective Date: July 1, 2008
1/9/2008 HOUSE Temporarily postponed by Conservation & State Lands
1/16/2008 HOUSE On Committee agenda - Conservation & State Lands, 01/23/08, 9:00 am, 216 C
1/23/2008 HOUSE Favorable with 1 Amendment by Conservation & State Lands; 7 Yeas, 0 Nays; Now in Environment & Natural Resources Council

Compare

[SB 1974](#) Relating to State Parks/Military Personnel & Families
SENATE Referred to Environmental Preservation and Conservation; Military
2/27/2008 Affairs and Domestic Security; Finance and Tax; General Government
Appropriations

HB 0301 Relating to Recycling Long
Recycling: Requires organizations, associations, businesses, & institutions operating in state & receiving state funds, & public airports in state, to collect certain recyclable products & materials & offer them for recycling. Effective Date: July 1, 2008
11/27/2007 HOUSE Filed
12/12/2007 HOUSE Referred to Environment & Natural Resources Council
12/13/2007 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

Identical

[SB 0692](#) Relating to Recycling
3/7/2008 SENATE Now in Governmental Operations

SB 0308 Relating to Energy Conservation Constantine
Energy Conservation [RPCC]; Revises provisions authorizing the use of solar collectors and includes condominiums in such provisions. Revises provisions relating to rebates provided under the Solar Energy System Incentives Program. Revises provisions relating to the renewable energy source property tax exemption, the sales tax exemption on equipment, machinery, and other materials for renewable energy technologies, and the renewable energy production tax credit, etc. EFFECTIVE DATE: 07/01/2008.
9/25/2007 SENATE Filed
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government
Appropriations

Compare

[HB 0229](#) Relating to Tax Credits for Renewable Energy Technologies
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0310](#) Relating to Biomass Energy Production
3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0312](#) Relating to Sustainable Standards for State Buildings
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; General Government Appropriations

[SB 0314](#) Relating to Renewable Energy Technologies Tax Credits
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0316](#) Relating to Energy Use
3/7/2008 SENATE Committee Substitute (C1) Filed

- [SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 0420](#) Relating to State Purchasing/Hybrid Vehicles
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Community Affairs; Governmental Operations; General Government Appropriations
- [SB 0434](#) Relating to Energy-Efficient Motor Vehicle Sales Tax Refund
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Finance and Tax; General Government Appropriations
- [HB 0457](#) Relating to Renewable Energy Technologies and Energy Efficiency
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
- [SB 0560](#) Relating to Energy Efficiency and Conservation
3/7/2008 SENATE Committee Substitute (C1) Filed
- [SB 0562](#) Relating to Educational Facilities/Building Standards
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Education Pre-K - 12; Education Facilities Appropriations
- [HB 1165](#) Relating to Renewable Energy
3/7/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
- [SB 1178](#) Relating to Renewable Energy Technologies & Energy Efficiency
SENATE Referred to Environmental Preservation and Conservation;
2/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations
- [HB 1413](#) Relating to Energy Efficiency
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- [HB 1519](#) Relating to Fuel-efficient Vehicles
3/7/2008 HOUSE Filed
- [SB 2250](#) Relating to Renewable Energy
SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations
- [SB 2422](#) Relating to State Contracts
2/28/2008 SENATE Filed
- [SB 2850](#) Relating to Energy Efficiency
3/4/2008 SENATE Filed

SB 0310 Relating to Biomass Energy Production

Constantine

Biomass Energy Production [RPCC]; Increases the limit on the amount of taxes that are exempt for the sale or use of materials used to distribute biodiesel and ethanol. Provides for transfer of the renewable energy technologies investment tax credit. Continues the Farm-to-Fuel Grants Program within the Department of Agriculture and Consumer Services. Creates the Biofuel Retail Sales Incentive Program, etc. EFFECTIVE DATE: 07/01/2008.

3/3/2008 SENATE On Committee agenda - Agriculture, 03/06/08, 3:15 pm, 37 S

3/6/2008 SENATE Favorable with CS by Agriculture; 6 Yeas, 0 Nays

3/7/2008 SENATE Committee Substitute (C1) Filed

Compare

[HB 0229](#) Relating to Tax Credits for Renewable Energy Technologies

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0308](#) Relating to Energy Conservation

- SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 0314](#) Relating to Renewable Energy Technologies Tax Credits
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
- [SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [HB 1165](#) Relating to Renewable Energy
HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
3/7/2008
- [SB 2250](#) Relating to Renewable Energy
SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

SB 0312 Relating to Sustainable Standards for State Buildings Constantine
Sustainable Standards for State Buildings [RPCC]; Provides that buildings and equipment owned or leased by the state meet energy-efficiency and sustainable-materials standards. Requires specified state buildings to meet the United States Green Building Council Leadership in Energy and Environmental Design rating system or another nationally recognized, high-performance sustainable building rating system as approved by the Department of Management Services, etc. EFFECTIVE DATE: 07/01/2008.
9/25/2007 SENATE Filed
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; General Government Appropriations

Compare

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- [SB 0308](#) Relating to Energy Conservation
SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 0316](#) Relating to Energy Use
3/7/2008 SENATE Committee Substitute (C1) Filed
- [SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 2422](#) Relating to State Contracts
2/28/2008 SENATE Filed

SB 0314 Relating to Renewable Energy Technologies Tax Credits Constantine
Renewable Energy Technologies Tax Credits [RPCC]; Revises provisions relating to the renewable energy source exemption for improved real property. Prohibits granting an exemption if a renewable energy source device is installed before July 1, 2008. Specifies that items identified by the Department of Environmental Protection as being eligible for a sales tax exemption on equipment, machinery, and other materials for renewable energy technologies are limited to only one refund, etc. EFFECTIVE DATE: 07/01/2008.
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations
2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

Compare

-
- [SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations

[SB 0310](#) Relating to Biomass Energy Production
3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations

[HB 1165](#) Relating to Renewable Energy
HOUSE Referred to Committee on Energy by Environment & Natural Resources
3/7/2008 Council

[SB 2250](#) Relating to Renewable Energy
SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government
Appropriations

Similar

[HB 0229](#) Relating to Tax Credits for Renewable Energy
Technologies
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating
Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

HB 0315 Relating to Local Government Officers and Employees Meadows
Local Government Officers and Employees: Expands eligibility for participation in state
group health insurance program & prescription drug coverage program to include all
counties, municipalities, & district school boards; specifies prerequisites & conditions for
participation; provides minimum period of enrollment; requires that participating counties,
municipalities, or school boards reimburse DMS for its costs, including administrative costs;
prohibits counties, municipalities, or school boards from participating in state's plan allowing
for pretax treatment of premium contributions. Effective Date: October 1, 2008
11/29/2007 HOUSE Filed
12/12/2007 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget
Council
1/23/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency &
Accountability Council

Identical

[SB 0410](#) Relating to Health Insurance/Local Govt. Officers &
Employees
3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K

SB 0316 Relating to Energy Use Constantine
Energy Use [RPCC] ; Revise criteria for energy conservation and sustainability for state-
owned buildings. Revises energy conservation performance guidelines to be used in life-
cycle cost analyses. Provides additional duties for the Department of Management Services
relating to the energy efficiency of state vehicles. Establishes the Green Schools Pilot
Project. Establishes standards for the purchase of biodiesel fuel by school district
transportation services, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE On Committee agenda - Governmental Operations, 03/06/08, 3:15 pm, 110 S
3/6/2008 SENATE Favorable with CS by Governmental Operations; 5 Yeas, 0 Nays
3/7/2008 SENATE Committee Substitute (C1) Filed

Compare

[HB 0023](#) Relating to Education Facilities
9/10/2007 HOUSE Referred to Schools & Learning Council; Policy & Budget Council

[SB 0308](#) Relating to Energy Conservation
SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations

[SB 0312](#) Relating to Sustainable Standards for State Buildings
11/28/2007 SENATE Referred to Environmental Preservation and Conservation;

- Governmental Operations; General Government Appropriations
- [SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations
- [SB 0420](#) Relating to State Purchasing/Hybrid Vehicles
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Community Affairs; Governmental Operations; General Government
Appropriations
- [SB 0562](#) Relating to Educational Facilities/Building Standards
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Education
Pre-K - 12; Education Facilities Appropriations
- [HB 1413](#) Relating to Energy Efficiency
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget
Council
- [HB 1519](#) Relating to Fuel-efficient Vehicles
3/7/2008 HOUSE Filed
- [SB 2422](#) Relating to State Contracts
2/28/2008 SENATE Filed
- [SB 2850](#) Relating to Energy Efficiency
3/4/2008 SENATE Filed

SB 0322 Relating to Political Subdivision/Officer & Employee Conduct Constantine
Political Subdivision/Officer & Employee Conduct [LPCC]; Specifies standards of conduct
for officers and employees of entities serving as the chief administrative officer of political
subdivisions. Provides for penalties to be imposed against persons other than lobbyists or
public officers and employers. Provides for the Commission on Ethics to report to the
Governor violations involving persons other than lobbyists or public officers and employees,
etc. EFFECTIVE DATE: 07/01/2008.
1/28/2008 SENATE On Committee agenda - Governmental Operations, 02/07/08, 9:00 am, 110 S
2/7/2008 SENATE Favorable with CS by Governmental Operations; 6 Yeas, 0 Nays; Committee
Substitute (C1) Filed
2/18/2008 SENATE Placed on Calendar, on second reading

Compare

-
- [HB 1113](#) Relating to Code of Ethics for Public Officers and
Employees
3/3/2008 HOUSE Referred to Committee on Ethics & Elections by Economic Expansion &
Infrastructure Council

SB 0326 Relating to Vessels/Clean Ocean Act Constantine
Vessels/Clean Ocean Act [RPCC]; Requires that owners or operators of certain vessels
operating in coastal waters register with the Department of Environmental Regulation (DEP)
prior to entering the marine waters of the state. Requires ports to establish procedures for
the release of certain substances from vessels at port facilities and such procedures shall
include a process for the verification of the contents released, etc. EFFECTIVE DATE:
07/01/2008.
9/25/2007 SENATE Filed
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Military Affairs and
Domestic Security; Regulated Industries; General Government Appropriations

Compare

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- [HB 0897](#) Relating to Regulation of Releases from Gambling
Vessels
3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm,
404 H
- [SB 1094](#) Relating to Gambling Vessels/Clean Ocean Act
SENATE Referred to Environmental Preservation and Conservation; Military
1/24/2008 Affairs and Domestic Security; Regulated Industries; General Government
Appropriations

- SB 0360 Relating to Community Redevelopment Areas/Ad Valorem Taxes** Fasano
 Community Redevelopment Areas/Ad Valorem Taxes [RPCC]; Authorizes a county or municipality to use ad valorem tax revenues to provide law enforcement, fire protection, or emergency medical services within a community redevelopment area, etc. EFFECTIVE DATE: 07/01/2008.
 9/27/2007 SENATE Filed
 11/28/2007 SENATE Referred to Community Affairs; Finance and Tax
- Similar**
-
- [HB 0063](#) Relating to Community Redevelopment Areas
 11/29/2007 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council
- SB 0378 Relating to Urban Revitalization Congress** Crist
 Urban Revitalization Congress [RPCC]; Creates the Urban Revitalization Congress within the Executive Office of the Governor to foster leadership and provide resources and support to economically energize the state's urban centers, etc. APPROPRIATION. EFFECTIVE DATE: 07/01/2008.
 10/1/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Commerce; Transportation and Economic Development Appropriations
- HB 0379 Relating to Florida Retirement System** Flores
 Florida Retirement System: Authorizes certain employees to purchase additional retirement credit in order to upgrade prior service to Special Risk Class service; provides for calculation of contributions for such service upgrade; authorizes employer to purchase additional credit for employee; provides statement of important state interest. Effective Date: July 1, 2008
 12/13/2007 HOUSE Filed
 1/3/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
 1/23/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council
- Similar**
-
- [SB 0106](#) Relating to FRS/Special Risk Class Credit Purchase
 11/28/2007 SENATE Referred to Community Affairs; Governmental Operations; General Government Appropriations
- HB 0387 Relating to Use of High-Occupancy-Vehicle Lanes** Jenne
 Use of High-Occupancy-Vehicle Lanes: Requires certain vehicles driven in an HOV lane to comply with specified fuel economy standards; provides that eligibility of certain vehicles to operate in an HOV lane shall be determined in accordance with U.S. E.P.A. rule; authorizes DHSMV to limit or discontinue use of decals for vehicles authorized to use HOV lanes; provides for continued toll-free use of HOV lane facility when facility is redesignated as open tolling. Effective Date: July 1, 2008
 12/18/2007 HOUSE Filed
 1/10/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
 1/29/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council
- Compare**
-
- [HB 1399](#) Relating to Department of Transportation
 3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
- Identical**
-
- [SB 1102](#) Relating to High-occupancy-vehicle (HOV) Lanes
 2/7/2008 SENATE Referred to Transportation; Environmental Preservation and Conservation; Transportation and Economic Development Appropriations
- SB 0392 Relating to State and Local Govt. Spending Disclosure/Website** Storms
 State and Local Govt. Spending Disclosure/Website [RPCC]; Requires the Department of

State to create and manage a website disclosing, on a quarterly basis, each expenditure with a total payment of \$5,000 or more made on or after July 1, 2008, by a governmental entity to a person under a contract. Defines "contract," "expenditure," "governmental entity," and "person." Requires that the website also state the name of each party to a contract for which the website lists an expenditure, etc. EFFECTIVE DATE: 07/01/2008.

10/1/2007 SENATE Filed

12/13/2007 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

Similar

[HB 0181](#) Relating to State and Local Government Spending

1/9/2008 HOUSE Favorable with Amendment(s) by Audit & Performance; 6 Yeas, 0 Nays; Now in Government Efficiency & Accountability Council

HB 0399 Relating to Financial Management by Local Governments Grant

Financial Management by Local Governments: Revises requirement that sheriff & clerk of court keep financial statements & books of accounts; provides that clerks of court are accountants of boards of county commissioners; defines clerk of court as county auditor; requires county auditors to prepare annual financial reports for counties; authorizes county auditors to perform audits & tests. Effective Date: July 1, 2008

1/30/2008 HOUSE On Committee agenda - Urban & Local Affairs, 02/06/08, 1:00 pm, 306 H

2/6/2008 HOUSE Favorable with 2 Amendments by Urban & Local Affairs; 8 Yeas, 0 Nays

2/7/2008 HOUSE Now in Government Efficiency & Accountability Council

Similar

[SB 0640](#) Relating to Local Governments/Financial Management

1/9/2008 SENATE Referred to Community Affairs; Judiciary

SB 0402 Relating to Target Industry Businesses/Expedited Permitting Fasano

Target Industry Businesses/Expedited Permitting [RPCC]; Cites act as the "Mike McHugh Act." Requires the Department of Environmental Protection and water management districts to adopt programs to expedite the processing of wetland and environmental resource permits for economic development projects identified by city or county commission resolutions as having met the definition of a target industry business. Provides a timeframe for permit application approval or denial, etc. EFFECTIVE DATE: 07/01/2008.

10/2/2007 SENATE Filed

12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Commerce; General Government Appropriations

Identical

[HB 0147](#) Relating to Expedited Permitting Process for Economic Development Projects

3/10/2008 HOUSE Committee Substitute (C1) Filed; Now in Policy & Budget Council; On Council agenda - Policy & Budget Council, 03/11/08, 1:00 pm, 212 K

SB 0410 Relating to Health Insurance/Local Govt. Officers & Employees Justice

Health Insurance/Local Govt. Officers & Employees [RPCC]; Expands eligibility for participation in the state group health insurance and the prescription drug coverage programs to include all counties, municipalities, and district school boards. Prohibits such entities from participating in the state's plan allowing for pretax treatment of premium contributions, etc. EFFECTIVE DATE: 10/01/2008.

10/3/2007 SENATE Filed

12/13/2007 SENATE Referred to Community Affairs; Governmental Operations; General Government Appropriations

3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K

Identical

[HB 0315](#) Relating to Local Government Officers and Employees

1/23/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council

SB 0412 Relating to Energy Bennett

Energy [RPCC]; Revises provisions relating to the renewable energy source property tax exemption, the sales tax exemption on equipment, machinery, and other materials for

renewable energy technologies, and renewable energy production tax credit. Revises provisions relating to the renewable energy technologies investment tax credit and authorizes transferability of such credit. Requires the Fla. Alternative Energy Center to certify the sales tax exemption, etc. EFFECTIVE DATE: 07/01/2008 except as otherwise provided.

10/3/2007 SENATE Filed

12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

Compare

- [HB 0229](#) Relating to Tax Credits for Renewable Energy Technologies
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
- [SB 0308](#) Relating to Energy Conservation
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 0310](#) Relating to Biomass Energy Production
3/7/2008 SENATE Committee Substitute (C1) Filed
- [SB 0312](#) Relating to Sustainable Standards for State Buildings
11/28/2007 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; General Government Appropriations
- [SB 0314](#) Relating to Renewable Energy Technologies Tax Credits
3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
- [SB 0316](#) Relating to Energy Use
3/7/2008 SENATE Committee Substitute (C1) Filed
- [SB 0414](#) Relating to Alternative Energy Center/Incentive Program
12/13/2007 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Commerce; Transportation and Economic Development Appropriations
- [HB 0457](#) Relating to Renewable Energy Technologies and Energy Efficiency
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
- [HB 0557](#) Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering
1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
- [SB 0562](#) Relating to Educational Facilities/Building Standards
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Education Pre-K - 12; Education Facilities Appropriations
- [HB 1165](#) Relating to Renewable Energy
3/7/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
- [SB 1178](#) Relating to Renewable Energy Technologies & Energy Efficiency
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations
- [SB 1382](#) Relating to Net Metering
2/21/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations
- [HB 1413](#) Relating to Energy Efficiency
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- [SB 1432](#) Relating to Renewable Energy Generation and Net

Metering

SENATE Referred to Communications and Public Utilities; Environmental
2/21/2008 Preservation and Conservation; Finance and Tax; General Government
Appropriations

[HB 1519](#) Relating to Fuel-efficient Vehicles
3/7/2008 HOUSE Filed

[SB 2250](#) Relating to Renewable Energy
SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government
Appropriations

[SB 2422](#) Relating to State Contracts
2/28/2008 SENATE Filed

[SB 2850](#) Relating to Energy Efficiency
3/4/2008 SENATE Filed

SB 0414 Relating to Alternative Energy Center/Incentive Program Bennett

Alternative Energy Center/Incentive Program [RPCC]; Creates the Florida Alternative
Energy Center to promote alternative energy technologies, including alternative fuels and
technologies for electrical power plants, electric motor vehicles, energy conservation,
distributed generation, advanced transmission methods, and the control of pollution and
greenhouse gases, etc. EFFECTIVE DATE: Upon becoming law.

10/3/2007 SENATE Filed

12/13/2007 SENATE Referred to Communications and Public Utilities; Environmental Preservation and
Conservation; Commerce; Transportation and Economic Development Appropriations

Compare

[SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations

Linked

[SB 0416](#) Relating to Florida Alternative Energy Center Trust Fund
SENATE Referred to Communications and Public Utilities; Environmental
12/13/2007 Preservation and Conservation; Commerce; Transportation and Economic
Development Appropriations

[SB 0418](#) Relating to Pub. Rec./Florida Alternative Energy Center
12/13/2007 SENATE Referred to Communications and Public Utilities; Environmental
Preservation and Conservation; Commerce; Governmental Operations; Rules

SB 0416 Relating to Florida Alternative Energy Center Trust Fund Bennett

Florida Alternative Energy Center Trust Fund [RPCC]; Creates the Florida Alternative
Energy Trust Fund within the Office of Tourism, Trade, and Economic Development.
Provides that the purpose of the trust fund is to provide funding for the Florida Alternative
Energy Center. Provides for future review and termination or re-creation of the fund, etc.
EFFECTIVE DATE: Contingent.

10/3/2007 SENATE Filed

12/13/2007 SENATE Referred to Communications and Public Utilities; Environmental Preservation and
Conservation; Commerce; Transportation and Economic Development Appropriations

Linked

[SB 0414](#) Relating to Alternative Energy Center/Incentive Program
SENATE Referred to Communications and Public Utilities; Environmental
12/13/2007 Preservation and Conservation; Commerce; Transportation and Economic
Development Appropriations

SB 0418 Relating to Pub. Rec./Florida Alternative Energy Center Bennett

Pub. Rec./Florida Alternative Energy Center [RPCC]; Creates an exemption from public
records and public meetings requirements for certain information held by the Florida
Alternative Energy Center. Provides a statement of public necessity exempting from public
disclosure information relating to recruiting, proprietary business information, research
information, and donor identification. Provides for future legislative review and repeal under

the Open Government Sunset Review Act, etc. EFFECTIVE DATE: Contingent.
10/3/2007 SENATE Filed
12/13/2007 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Commerce; Governmental Operations; Rules

Linked

[SB 0414](#) Relating to Alternative Energy Center/Incentive Program
SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Commerce; Transportation and Economic Development Appropriations

SB 0420 Relating to State Purchasing/Hybrid Vehicles Deutch
State Purchasing/Hybrid Vehicles [RPCC]; Requires state agencies and certain local governments to purchase hybrid, flex-fuel, or biodiesel vehicles if such vehicles are available. Requires the Department of Management Services to adopt rules establishing criteria for the purchase of such vehicles, etc. EFFECTIVE DATE: 07/01/2008.
10/3/2007 SENATE Filed
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Governmental Operations; General Government Appropriations

Compare

[SB 0308](#) Relating to Energy Conservation
SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0316](#) Relating to Energy Use
3/7/2008 SENATE Committee Substitute (C1) Filed

[HB 1519](#) Relating to Fuel-efficient Vehicles
3/7/2008 HOUSE Filed

SB 0426 Relating to Oil and Gas Drilling/Florida Coastline Bennett
Oil and Gas Drilling/Florida Coastline [RPCC]; Urges the Congress of the United States to stand strong and united against any attempt to allow oil or gas drilling along Florida's coastline, etc.
10/3/2007 SENATE Filed
12/13/2007 SENATE Referred to Environmental Preservation and Conservation

Similar

[HB 0221](#) Relating to Protection of Florida Coastline Against Oil and Gas Drilling
2/20/2008 HOUSE Temporarily postponed by Energy

SB 0428 Relating to Regional Workforce Board/One-stop Operator Bennett
Regional Workforce Board/One-stop Operator [EPCC]; Authorizes the designation of a regional workforce board as a one-stop operator and direct provider of intake, assessment, eligibility determinations or other direct provider services except training services. Provides that such designation is subject to the approval by the Governor and the regional designated chief elected official, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Favorable with CS by Commerce; 9 Yeas, 0 Nays
3/5/2008 SENATE Committee Substitute (C1) Filed
3/6/2008 SENATE Now in Community Affairs

Similar

[HB 0959](#) Relating to Workforce Innovation
3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

HB 0431 Relating to Affordable Housing Fitzgerald
Affordable Housing: Revises provisions providing for assessment of property receiving low-income housing tax credit; provides for assessment of structural improvements on land owned by community land trust & used to provide affordable housing; provides for conveyance of structural improvements subject to specified conditions; specifies criteria to be used in arriving at just valuation of structural improvements. Effective Date: July 1, 2008
1/10/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

Identical

SB 0796 Relating to Affordable Housing

1/24/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government Appropriations

SB 0432 Relating to Artificial Reefs/Placement of Vessels

Bennett

Artificial Reefs/Placement of Vessels [RPCC]; Authorizes the Florida Fish and Wildlife Conservation Commission (FWC) to plan, establish, and administer the Florida Ships-2-Reefs Program, a statewide matching grant program, for the securing and placing of United States Maritime Administration and United States Navy decommissioned vessels in state or federal waters seaward of the state to serve as artificial reefs, etc. EFFECTIVE DATE: Upon becoming law.

3/3/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/06/08, 3:15 pm, 401 S

3/6/2008 SENATE Favorable by Environmental Preservation and Conservation; 6 Yeas, 0 Nays

3/10/2008 SENATE Now in Community Affairs

Identical

HB 0179 Relating to Placement of Vessels in State or Federal Waters Seaward of the State to Form Artificial Reefs

12/12/2007 HOUSE Favorable by Conservation & State Lands; 8 Yeas, 0 Nays; Now in Environment & Natural Resources Council

SB 0434 Relating to Energy-Efficient Motor Vehicle Sales Tax Refund

Margolis

Energy-Efficient Motor Vehicle Sales Tax Refund [RPCC]; Provides that any person who purchases an alternative motor vehicle from a sales tax dealer is eligible for a refund of the sales tax paid if the vehicle is certified as a new qualified vehicle by the IRS for the income tax credit for alternative motor vehicles. Provides that the total dollar amount of refunds is limited to the total amount of appropriations in any fiscal year, etc. APPROPRIATION. EFFECTIVE DATE: 07/01/2008.

10/3/2007 SENATE Filed

12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations

Compare

SB 0308 Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

HB 0445 Relating to Intergovernmental Cooperation

Proctor

Intergovernmental Cooperation: Authorizes parties to interlocal agreement to provide for use or maintenance of facilities or equipment; authorizes district school boards to perform certain functions by means of interlocal agreement; provides for use of school buses for additional public purposes. Effective Date: upon becoming a law

2/14/2008 HOUSE Referred to Committee on Education Innovation & Career Preparation by Schools & Learning Council

2/29/2008 HOUSE On Committee agenda - Education Innovation & Career Preparation, 03/04/08, 1:00 pm, 116 K

3/4/2008 HOUSE Favorable with 1 Amendment by Education Innovation & Career Preparation; 8 Yeas, 0 Nays

Identical

SB 1070 Relating to Intergovernmental Cooperation

3/7/2008 SENATE On Committee agenda - Education Pre-K - 12, 03/12/08, 2:30 pm, 110 S

HB 0457 Relating to Renewable Energy Technologies and Energy Efficiency

Hukill

Renewable Energy Technologies and Energy Efficiency: Designates act "Florida Net

Metering Incentive Act"; establishes Net Metering Incentive Program; directs PSC to require electric utilities to develop net metering programs; provides for customer to receive credit for electricity generated by renewable energy systems owned by customer; provides eligibility criteria; authorizes PSC & DEP to adopt rules; specifies period during which sale of energy-efficient product is exempt from tax on sales, use, & other transactions; provides definition; provides exceptions; provides for DOR to adopt rules. Effective Date: upon becoming a law
 1/23/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 01/25/08, 9:00 am, 301 C (No Votes Will Be Taken)
 1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
 1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Compare

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- [SB 0308](#) Relating to Energy Conservation
 SENATE Referred to Environmental Preservation and Conservation;
 11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [SB 0412](#) Relating to Energy
 SENATE Referred to Environmental Preservation and Conservation;
 12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
- [HB 0557](#) Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering
 1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
- [SB 1382](#) Relating to Net Metering
 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations
 2/21/2008
- [SB 1432](#) Relating to Renewable Energy Generation and Net Metering
 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations
 2/21/2008

Similar

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- [SB 1178](#) Relating to Renewable Energy Technologies & Energy Efficiency
 SENATE Referred to Environmental Preservation and Conservation;
 2/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

- SB 0474 Relating to Growth Management** Garcia
 Growth Management [RPCC]; Expresses the legislative intent to revise laws relating to growth management. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Transportation and Economic Development Appropriations; Rules
- SB 0476 Relating to Growth Management** Garcia
 Growth Management [RPCC]; Expresses the legislative intent to revise laws relating to growth management. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Transportation and Economic Development Appropriations; Rules
- SB 0478 Relating to the Department of Community Affairs** Garcia
 Department of Community Affairs [RPCC]; Expresses the legislative intent to revise laws relating to the Department of Community Affairs. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Governmental Operations; Transportation and Economic Development Appropriations; Rules

- SB 0480 Relating to Department of Community Affairs** Garcia
 Department of Community Affairs [RPCC]; Expresses the legislative intent to revise laws relating to the Department of Community Affairs. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Governmental Operations; Transportation and Economic Development Appropriations; Rules
- SB 0482 Relating to Affordable Housing** Garcia
 Affordable Housing [RPCC]; Expresses the legislative intent to revise laws relating to affordable housing. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Transportation and Economic Development Appropriations; Rules
 3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K - Workshop
- SB 0484 Relating to Affordable Housing** Garcia
 Affordable Housing [RPCC]; Expresses the legislative intent to revise laws relating to affordable housing. EFFECTIVE DATE: Upon becoming law.
 10/8/2007 SENATE Filed
 12/13/2007 SENATE Referred to Community Affairs; Transportation and Economic Development Appropriations; Rules
- HB 0527 Relating to Brownfield Site Redevelopment** Williams
 Brownfield Site Redevelopment: Expands eligibility for site rehabilitation tax credits; provides for application to brownfield site redevelopment solid waste removal costs; provides for application to construction & operation of new health care facilities or health care providers in brownfield sites; revises provisions providing partial tax credits for rehabilitation of contaminated sites & brownfield sites; provides criteria for claiming costs for solid waste removal; revises criteria & requirements for granting site rehabilitation removal tax credits; provides additional limitations on tax credit awards for site rehabilitation costs & solid waste removal costs; revises brownfield site redevelopment program administration process; revises local government proposal requirements; revises requirements for brownfield site redevelopment agreements; deletes brownfield site rehabilitation contractor certification requirements & requirement that specified professionals carry professional liability insurance; authorizes local governments to evaluate benefits & effects of brownfield site redevelopment & rehabilitation; provides for limited application of Brownfield Areas Loan Guarantee Program grants to construction & operation of new health care facilities & health care providers; expands membership of Brownfield Areas Loan Guarantee Council.
 Effective Date: July 1, 2008
 1/23/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council; Bill to Be Discussed During the Office of the EDR's Revenue Impact Conference; 01/25/08, 9:00 am, 301 C (No Votes Will Be Taken)
 1/25/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council
 3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H
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- Compare**
[SB 2594](#) Relating to Brownfield Areas
 2/29/2008 SENATE Filed
- SB 0542 Relating to Land Acquisition/Florida Forever Trust Fund** Saunders (B)
 Land Acquisition/Florida Forever Trust Fund [RPCC]; Eliminates obsolete provisions relating to the distribution of funds in the Florida Forever Trust Fund to the South Florida Water Management District, etc. EFFECTIVE DATE: Upon becoming law.
 10/18/2007 SENATE Filed
 12/13/2007 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules
- HB 0547 Relating to Water Pollution Control** Kreegel
 Water Pollution Control: Provides requirements for basin management action plans; allows such plans to take into account benefits of pollutant load reduction achieved by point or

nonpoint sources; requires that DEP adopt such plan or amendment thereto by secretarial order pursuant to state law; provides that provisions of department's rule relating to equitable abatement of pollutants into surface waters may not be applied to water bodies or water body segments for which certain basin management plan has been adopted; authorizes water quality protection programs to include trading of water quality credits; specifies that water quality credit trading pilot project be limited to Lower St. Johns River Basin; requires that department provide Legislature with annual report regarding effectiveness of pilot project; authorizes department to authorize & establish specific requirements for water quality credit trading as part of Lower St. Johns River Basin adopted basin management action plan; authorizes department to revise water pollution operation permit under certain circumstances; authorizes department to revise, renew, issue, or reissue such permit if water quality credit trade that meets requirements of total maximum daily load allocation has been approved in final order issued pursuant to state law; requires that revised permits be accompanied by order establishing schedule for achieving compliance with all permit conditions. Effective Date: July 1, 2008

3/3/2008 HOUSE On Council agenda - Environment & Natural Resources Council, 03/05/08, 9:00 am, 404 H

3/5/2008 HOUSE PCS Favorable by Environment & Natural Resources Council; 13 Yeas, 0 Nays

3/10/2008 HOUSE Committee Substitute (C1) Filed; Now in Policy & Budget Council; On Council agenda - Policy & Budget Council, 03/11/08, 1:00 pm, 212 K

Identical

SB 1208 Relating to Water Pollution Control

2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations

SB 0548 Relating to Sales Tax Exemption/Water-efficient Products Aronberg

Sales Tax Exemption/Water-efficient Products [RPCC]; Specifies a period during which the sale of a water-efficient product for noncommercial home or personal use, and having a certain selling price, is exempt from the tax on sales, use, and other transactions. Provides that the exemption does not apply to such a product when purchased for trade, business, or resale, etc. EFFECTIVE DATE: 07/01/2008.

10/23/2007 SENATE Filed

12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations

2/21/2008 SENATE Withdrawn from Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations; Withdrawn prior to introduction

HB 0553 Relating to Local Government Infrastructure Surtax Heller

Local Government Infrastructure Surtax: Redefines term "infrastructure" to allow proceeds of local government infrastructure surtax to be used to purchase land for construction of affordable or workforce housing units. Effective Date: July 1, 2008

1/23/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Identical

SB 0986 Relating to Local Government Infrastructure Surtax/Housing

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

HB 0557 Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering Fitzgerald

Interconnection of Customer-owned Renewable Energy Generation and Net Metering: Requires electric utilities to develop standard interconnection agreements for customer-owned renewable energy generation; requires electric utilities to provide net metering; specifies requirements. Effective Date: July 1, 2008

1/16/2008 HOUSE Filed

1/23/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

Compare

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- [SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations
- [HB 0457](#) Relating to Renewable Energy Technologies and Energy
Efficiency
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating
Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
- [SB 1178](#) Relating to Renewable Energy Technologies & Energy
Efficiency
SENATE Referred to Environmental Preservation and Conservation;
2/7/2008 Communications and Public Utilities; Finance and Tax; General Government
Appropriations
- [SB 1382](#) Relating to Net Metering
SENATE Referred to Communications and Public Utilities; Environmental
2/21/2008 Preservation and Conservation; Finance and Tax; General Government
Appropriations

Identical

-
- [SB 1432](#) Relating to Renewable Energy Generation and Net
Metering
SENATE Referred to Communications and Public Utilities; Environmental
2/21/2008 Preservation and Conservation; Finance and Tax; General Government
Appropriations

- SB 0560 Relating to Energy Efficiency and Conservation** Constantine
Energy Efficiency and Conservation [RPCC]; Revises provisions authorizing the use of solar
collectors and other energy devices. Revises requirements for the future land use element
of a local comprehensive plan to include energy-efficient land use patterns. Requires that
the Florida Building Code facilitate and promote the use of certain renewable energy
technologies in buildings, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE On Committee agenda - Community Affairs, 03/06/08, 3:15 pm, 412 K
3/6/2008 SENATE Favorable with CS by Community Affairs; 9 Yeas, 0 Nays
3/7/2008 SENATE Committee Substitute (C1) Filed

Compare

-
- [SB 0308](#) Relating to Energy Conservation
SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and
Tax; General Government Appropriations
- [SB 0558](#) Relating to Florida Building Code
12/13/2007 SENATE Referred to Community Affairs; Banking and Insurance
- [HB 0697](#) Relating to Florida Building Code
3/6/2008 HOUSE Temporarily postponed by Infrastructure

- HB 0561 Relating to Affordable Senior Housing** Vana
Affordable Senior Housing: Authorizes local governments to include affordable senior
housing element in comprehensive plans; specifies element requirements. Effective Date:
July 1, 2008
1/16/2008 HOUSE Filed
1/23/2008 HOUSE Referred to Economic Expansion & Infrastructure Council
1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion &
Infrastructure Council

Identical

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- [SB 2014](#) Relating to Affordable Senior Housing
2/27/2008 SENATE Referred to Community Affairs; Transportation and Economic
Development Appropriations

- HB 0567 Relating to Onsite Sewage Treatment and Disposal Systems** Poppell
Onsite Sewage Treatment and Disposal Systems: Provides that member of local

government who is knowledgeable about domestic wastewater treatment be added to research review & advisory committee & technical review & advisory panel established by DOH for purposes of onsite sewage treatment & disposal system regulation. Effective Date: July 1, 2008

1/28/2008 HOUSE Referred to Committee on Health Quality by Healthcare Council
2/12/2008 HOUSE On Committee agenda - Health Quality, 02/19/08, 8:00 am, 306 H
2/19/2008 HOUSE Favorable by Health Quality; 11 Yeas, 0 Nays; Now in Healthcare Council

Identical

[SB 1318](#) Relating to Onsite Sewage Treatment and Disposal Systems

3/10/2008 SENATE On Committee agenda - Governmental Operations, 03/13/08, 9:00 am, 110 S

SB 0570 Relating to Wekiva Onsite Sewage Treatment Grant Program Constantine
Wekiva Onsite Sewage Treatment Grant Program [SPCC]; Creates the Wekiva Onsite Sewage Treatment and Disposal System Compliance Grant Program in the Department of Health. Authorizes low-income property owners in certain areas of the Wekiva basin to apply for grants to improve onsite sewage treatment and disposal systems. Provides grant limitations and for the grant to be a rebate of costs incurred, etc. EFFECTIVE DATE: Upon becoming law.

10/25/2007 SENATE Filed

12/13/2007 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; Health and Human Services Appropriations

Compare

[HB 0975](#) Relating to Onsite Sewage Treatment and Disposal Systems

3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

HB 0621 Relating to Satellite Enterprise Zones Galvano

Satellite Enterprise Zones: Authorizes specified municipalities to designate satellite enterprise zones; provides responsibilities of OTTED; provides for nonapplication of specified requirements to satellite enterprise zones. Effective Date: July 1, 2008

1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

2/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/08/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Similar

[SB 2560](#) Relating to Satellite Enterprise Zones

2/29/2008 SENATE Filed

HB 0635 Relating to Water Management Needelman

Water Management: Provides that operation & maintenance of intracoastal waterway & other public navigation channels by inland navigation districts is in public interest; authorizes districts to work with nonmember counties on addressing impacts of development projects; removes requirement for DEP to adopt procedural rules for dredge & fill projects; revises provisions for maintenance dredging; removes exemption for certain irrigation & drainage ditch projects; authorizes DEP to develop & maintain list of flocculants use of which is permitted under pt. IV, ch. 373, F.S., relating to management & storage of surface waters; repeals provision relating to responsibility of inland navigation districts for posting & maintaining regulatory markers for manatee protection speed zones. Effective Date: July 1, 2008

2/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

3/3/2008 HOUSE On Committee agenda - Environmental Protection, 03/05/08, 11:00 am, 404 H

3/5/2008 HOUSE Favorable with Amendments by Environmental Protection; 9 Yeas, 0 Nays; Now in Environment & Natural Resources Council

Compare

[SB 0758](#) Relating to Inland Navigation Districts
3/7/2008 SENATE Committee Substitute (C1) Filed

SB 0640 Relating to Local Governments/Financial Management Oelrich
Local Governments/Financial Management [RPCC]; Clarifies a requirement that the sheriff and the clerk of the circuit court keep financial statements and books of accounts in accordance with Local Financial Management and Reporting law. Provides that the clerk of the circuit court is the accountant of the board of county commissioners and the county auditor, etc. EFFECTIVE DATE: Upon becoming law.
11/16/2007 SENATE Filed
1/9/2008 SENATE Referred to Community Affairs; Judiciary

Similar

[HB 0399](#) Relating to Financial Management by Local Governments
2/7/2008 HOUSE Now in Government Efficiency & Accountability Council

SB 0644 Relating to My Safe Florida Home Program/Wind Certification Justice
My Safe Florida Home Program/Wind Certification [EPCC]; Requires that wind certification entities meet certain minimum criteria to qualify for selection by the Department of Financial Services. Deletes a provision requiring hurricane mitigation inspectors participating in the program to meet the requirements for a criminal record check by a specified date. Requires insurers to accept as valid certain uniform inspection forms, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Favorable with CS by Banking and Insurance; 10 Yeas, 0 Nays
3/5/2008 SENATE Committee Substitute (C1) Filed
3/6/2008 SENATE Now in General Government Appropriations

SB 0660 Relating to Seagrass Beds/Protection and Restoration Bennett
Seagrass Beds/Protection and Restoration [RPCC]; Creates a pilot program for the restoration of seagrass beds within Brevard, Charlotte, Lee, Manatee, Monroe, or Pinellas counties or the natural resources that depend on the health and productivity of the seagrass beds. Requires that damages recovered for injury to, and the destruction of, seagrass beds in specified counties and the related natural resources be deposited into the Ecosystem Management and Restoration Trust Fund, etc. EFFECTIVE DATE: 07/01/2008 except as otherwise provided.
3/3/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/06/08, 3:15 pm, 401 S
3/6/2008 SENATE Favorable with CS by Environmental Preservation and Conservation; 6 Yeas, 0 Nays
3/7/2008 SENATE Committee Substitute (C1) Filed

SB 0662 Relating to Impact Fees Bennett
Impact Fees [RPCC]; Requires that notice be provided no less than 90 days before the effective date of a county or municipal ordinance or a special district resolution imposing a new or increased impact fee. Provides that the notice is not required if an impact fee is decreased or eliminated, etc. EFFECTIVE DATE: Upon becoming law.
11/16/2007 SENATE Filed
1/9/2008 SENATE Referred to Community Affairs; Finance and Tax
2/7/2008 SENATE Withdrawn from Community Affairs; Finance and Tax; Withdrawn prior to introduction

Compare

[HB 1093](#) Relating to Impact Fees
3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[SB 2050](#) Relating to Impact Fees
3/7/2008 SENATE Referred to Community Affairs; Finance and Tax

SB 0666 Relating to Abandoned Petroleum Storage/Financial Assistance Posey
Abandoned Petroleum Storage/Financial Assistance [RPCC]; Clarifies a provision in the

abandoned petroleum storage system program that allows certain innocent victims to be eligible for cleanup assistance. Provides that if the qualifying property passes to a surviving spouse or is transferred into a revocable trust, the property remains eligible for the cleanup program, etc. EFFECTIVE DATE: 07/01/2008.

11/16/2007 SENATE Filed

1/9/2008 SENATE Referred to Environmental Preservation and Conservation; Judiciary; General Government Appropriations

2/15/2008 HOUSE SENATE Withdrawn from Environmental Preservation and Conservation; Judiciary; General Government Appropriations; Withdrawn prior to introduction

Identical

[HB 1091](#) Relating to Financial Assistance for Contaminated Petroleum Storage Sites
3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H

[SB 2018](#) Relating to Abandoned Petroleum Storage/Financial Assistance
2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Judiciary; General Government Appropriations

SB 0682 Relating to Interstate 95/Alternative Routes Study Bullard (L)
Interstate 95/Alternative Routes Study [EPCC]; Requires the Department of Transportation to complete a study of transportation alternatives for the travel corridor parallel to Interstate 95 which takes into account the transportation, emergency management, homeland security, and economic development needs of the state, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE On Committee agenda - Military Affairs and Domestic Security, 03/05/08, 9:00 am, 301 S
3/5/2008 SENATE Favorable by Military Affairs and Domestic Security; 7 Yeas, 0 Nays
3/6/2008 SENATE Now in Transportation and Economic Development Appropriations

Compare

[HB 0899](#) Relating to Department of Transportation
2/27/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

SB 0692 Relating to Recycling Jones
Recycling [RPCC]; Requires each organization, association, business, and institution operating in the state and receiving state funds, and each public airport, to collect aluminum beverage cans and recyclable plastic and glass from its place of business, or from the entities doing business at the airport, and to offer such materials for recycling, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/06/08, 3:15 pm, 401 S
3/6/2008 SENATE Favorable by Environmental Preservation and Conservation; 6 Yeas, 0 Nays
3/7/2008 SENATE Now in Governmental Operations

Identical

[HB 0301](#) Relating to Recycling
12/13/2007 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

HB 0699 Relating to Affordable Housing Aubuchon
Affordable Housing: Removes provision requiring FHFC to transfer certain funds to General Revenue Fund; revises definitions; revises frequency with which local housing distributions are to be made by corporation; revises calculations used to determine guaranteed distribution amounts; provides & revises powers & duties of corporation; provides requirements for counties & eligible municipalities; provides requirements for local housing assistance plans; increases threshold amount used to determine which counties & municipalities may use specified percentage of program income for administrative costs; requires corporation to provide training for certain purposes; revises membership criteria for affordable housing advisory committees; revises notice requirements for public hearings of advisory committee; requires committees final report, evaluation, & recommendations to be

submitted to corporation; repeals provision relating to state administration of remaining local housing distribution funds. Effective Date: July 1, 2008
1/28/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

Compare

[HB 1329](#) Relating to Infrastructure
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 0704 Relating to Open Government Act/Administrative Procedures Bennett
Open Government Act/Administrative Procedures [RPCC]; Revises the guidelines for the construction of statutory language granting rulemaking authority. Provides additional procedures for rule-adoption hearings. Authorizes the Administrative Procedures Committee to request from an agency information to examine unadopted agency statements. Requires that certain proceedings be terminated & subsequently reinstated under different provisions of law if a disputed issue of material fact arises, etc. APPROPRIATION: \$345,000. EFFECTIVE DATE: 07/01/2008 except as otherwise provided.
1/24/2008 SENATE Favorable by Governmental Operations; 5 Yeas, 0 Nays
1/25/2008 SENATE Now in Judiciary
3/6/2008 SENATE On Committee agenda - Judiciary, 03/11/08, 2:00 pm, 110 S

SB 0708 Relating to Desalination Technology Study Saunders (B)
Desalination Technology Study [RPCC]; Directs the Secretary of Environmental Protection to coordinate with the water management districts to conduct a study examining all current and available desalination technologies, etc. EFFECTIVE DATE: 07/01/2008.
12/3/2007 SENATE Filed
1/9/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations

Identical

[HB 0199](#) Relating to Desalination Technology
3/5/2008 HOUSE Favorable by Environment & Natural Resources Council; 15 Yeas, 0 Nays; Now in Policy & Budget Council

HB 0713 Relating to Housing Authorities Taylor
Housing Authorities: Revises finding & declaration of necessity to provide that development & implementation of mandatory family self-sufficiency programs is purpose for which public money may be spent & private property acquired & is governmental function of public concern; requires housing authorities to develop family self-sufficiency programs; provides program objectives & requirements; authorizes housing authority to apply to DCA for funding under certain conditions; provides application requirements for funding; revises appointment & qualification requirements for housing authority commissioners. Effective Date: July 1, 2008
1/23/2008 HOUSE Filed
2/6/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
2/15/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 1970](#) Relating to Housing Authorities
SENATE Referred to Community Affairs; Children, Families, and Elder Affairs;
2/27/2008 Governmental Operations; Transportation and Economic Development Appropriations

HB 0715 Relating to Local Government Revenue Sources Flores
Local Government Revenue Sources: Requires super majority vote for actions by local government to levy new, increase existing, expand base or area subject to, or eliminate exemption from taxes, special assessments, non-ad valorem assessments, or impact fees; requires super majority vote of electors voting in referenda on laws taking same actions;

provides exception for emergencies; provides for nonapplication to specified other revenue sources. Effective Date: July 1, 2008
1/23/2008 HOUSE Filed
2/6/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
3/6/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

Identical

SB 2412 Relating to Local Government Revenue Sources
2/28/2008 SENATE Filed

HB 0723 Relating to Hillsborough County Ambler
Hillsborough County: Revises membership of Hillsborough County Environmental Protection Commission; provides for termination of current membership & appointment of new & alternate membership & terms of office; revises legislative intent; provides definition; revises membership of Hillsborough County City-County Planning Commission; revises membership of Tampa Sports Authority. Effective Date: July 1, 2009
1/23/2008 HOUSE Filed
2/6/2008 HOUSE Referred to Government Efficiency & Accountability Council
3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council

SB 0730 Relating to Class I Landfills/Permits Crist
Class I Landfills/Permits [RPCC]; Prohibits the Department of Environmental Protection (DEP) from issuing a permit for construction of a new Class I landfill or expansion of an existing Class I landfill within 1 mile of specified surface waters. Requires the DEP to consider whether any surface waters flow in a direction that allows the new or expanded landfill to directly contaminate such surface waters before approval of an application to construct or expand a Class I landfill, etc. EFFECTIVE DATE: 07/01/2008.
12/5/2007 SENATE Filed
1/9/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations

HB 0733 Relating to Tax Credit for Research and Development Expenses Grant
Tax Credit for Research and Development Expenses: Provides legislative intent regarding state research & development tax credit; defines terms "base amount," "business enterprise," & "qualified research expenses"; provides tax credit for businesses having qualified research expenses; provides that tax credit is 10% of excess over base amount; provides that credit taken in taxable year may not exceed specified amount; provides that unused credits may be carried forward for up to 10 years following close of tax year in which qualified expenses were incurred; provides that unused credits may be assigned or sold to another taxpayer; provides maximum credit amount; requires DOR to adopt rules & guidelines. Effective Date: July 1, 2008
3/4/2008 HOUSE On Committee agenda - Economic Development, 03/06/08, 1:45 pm, Reed Hall
3/6/2008 HOUSE Favorable with 1 Amendment by Economic Development; 10 Yeas, 0 Nays
3/7/2008 HOUSE Now in Economic Expansion & Infrastructure Council

Similar

SB 1398 Relating to Research and Development Expenses Tax Credit
2/21/2008 SENATE Referred to Commerce; Finance and Tax; General Government Appropriations

HB 0735 Relating to Affordable Housing Property Tax Exemptions Fitzgerald
Affordable Housing Property Tax Exemptions: Provides additional criteria for determining whether affordable housing property owned by exempt organizations is exempt from ad valorem taxation; specifies criteria & requirements for revoking affordable housing property exemption; subjects organizations owning specified property to ad valorem taxation under specified circumstances; provides for tax liens; provides for penalties & interest; provides notice requirements. Effective Date: upon becoming a law
2/6/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council

2/13/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/15/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
3/6/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

Identical

[SB 1490](#) Relating to Property Tax Exemption/Affordable Housing
2/21/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government Appropriations

HB 0747 Relating to Charter County Transit System Surtax

Ross

Charter County Transit System Surtax: Renames surtax as Charter County Transportation System Surtax; expands eligibility to levy surtax to all charter counties. Effective Date: July 1, 2008

2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council
3/10/2008 HOUSE On Committee agenda - Urban & Local Affairs, 03/12/08, 9:00 am, 306 H

Identical

[SB 1626](#) Relating to Charter County Transit System Surtax
SENATE Referred to Transportation; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations; Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

SB 0758 Relating to Inland Navigation Districts

Bennett

Inland Navigation Districts [RPCC]; Authorizes inland navigation districts to aid and cooperate with certain nonmember counties, certain seaports, and navigation districts in planning and carrying out certain projects concerning waterways. Requires that the FWC assume certain responsibilities for posting and maintaining regulatory markers concerning manatee protection speed zones. Authorizes the DEP to develop and maintain a list concerning use of flocculants, etc. EFFECTIVE DATE: 07/01/2008.

3/3/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/06/08, 3:15 pm, 401 S
3/6/2008 SENATE Favorable with CS by Environmental Preservation and Conservation; 6 Yeas, 0 Nays
3/7/2008 SENATE Committee Substitute (C1) Filed

Compare

[HB 0635](#) Relating to Water Management
3/5/2008 HOUSE Favorable with Amendmens by Environmental Protection; 9 Yeas, 0 Nays; Now in Environment & Natural Resources Council

HB 0761 Relating to Agriculture

Pickens

Agriculture: Prohibits county government imposition of tax, assessment, or fee for stormwater management on agricultural land meeting certain requirements; expands eligibility for exemption from local business tax receipt for privilege of selling specified products; provides indemnity of agricultural landowner for easement or other right secured by water management district for public access; provides responsibility for gross negligence & other acts; delineates requirements for tomato farmer, packer, repacker, or handler to comply with state food safety microbial standards; provides for adoption of best management practices; removes tropical foliage from regulation under dealers in agriculture products provisions; expands local government exemptions for nonresidential farm buildings; expands agricultural operations materials that can be openly burned. Effective Date: July 1, 2008

1/28/2008 HOUSE Filed
2/6/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
2/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council

Similar

[SB 2060](#) Relating to Agriculture

3/7/2008 SENATE Referred to Agriculture; Community Affairs; Judiciary; General Government Appropriations

SB 0774 Relating to Transportation Baker
Transportation [EPCC]; Expresses the legislative intent to revise laws relating to transportation. EFFECTIVE DATE: Upon becoming law.
12/13/2007 SENATE Filed
1/24/2008 SENATE Referred to Transportation; Community Affairs; Transportation and Economic Development Appropriations; Rules

SB 0776 Relating to Transportation Baker
Transportation; Expresses the legislative intent to revise laws relating to transportation. EFFECTIVE DATE: Upon becoming law.
12/13/2007 SENATE Filed
1/24/2008 SENATE Referred to Transportation; Community Affairs; Transportation and Economic Development Appropriations; Rules

SB 0778 Relating to Department of Transportation Baker
Department of Transportation [EPCC]; Expresses the legislative intent to revise laws relating to the Department of Transportation. EFFECTIVE DATE: Upon becoming law.
12/13/2007 SENATE Filed
1/24/2008 SENATE Referred to Transportation; Governmental Operations; Transportation and Economic Development Appropriations; Rules

SB 0788 Relating to Transportation Disadvantaged/Services Fasano
Transportation Disadvantaged/Services [EPCC]; Revises the number of members required for a quorum at a meeting of the Commission for the Transportation Disadvantaged. Revises responsibilities for the commission and requires the commission to incur expenses for the purchase of advertisements, marketing services, and promotional items. Revises and creates duties and responsibilities for agencies that purchase transportation services for the transportation disadvantaged, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Favorable by Transportation; 7 Yeas, 0 Nays
3/5/2008 SENATE Now in Community Affairs
3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K

Similar

[HB 1175](#) Relating to Transportation Disadvantaged Services
3/5/2008 HOUSE Referred to Healthcare Council; Policy & Budget Council

HB 0795 Relating to Special Districts Kriseman
Special Districts: Declares it state policy to codify charter of each independent & dependent special district every 10 years; requires each governmental entity that creates district to be responsible for subsequent examination of charter; provides criteria for determining district performance; requires that Legislature dispose of assets of district it abolishes & assign district's powers & duties; requires that DCA confirm any recommendation by local governmental entity to abolish district; requires that assets, powers, & duties of district be transferred to county or counties in which district operates; requires each district to pay costs of conducting subsequent examination; requires that examination be conducted by outside auditor in certain circumstances; provides schedule of codifications; provides procedures with respect to newly created districts, districts that appear in more than one function classification, & districts codification of which was omitted; provides liability of district officer or board member when audit shows that officer or member is responsible for financial loss by district through misfeasance, malfeasance, or nonfeasance; provides that district has cause of action against officer or member for recovery of its loss. Effective Date: July 1, 2008
1/31/2008 HOUSE Filed
2/11/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council

Identical

[SB 1210](#) Relating to Special Districts/Charter Codification

2/7/2008 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

SB 0796 Relating to Affordable Housing

Bennett

Affordable Housing [RPCC]; Defines "community land trust" as a nonprofit, qualified charitable entity that has as one of its purposes the acquisition of land to be held in perpetuity for the primary purpose of providing affordable housing ownership. Provides for the assessment of structural improvements on land owned by a community land trust and used to provide affordable housing, etc. EFFECTIVE DATE: 07/01/2008.

12/13/2007 SENATE Filed

1/24/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government Appropriations

Identical

[HB 0431](#) Relating to Affordable Housing

2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

HB 0865 Relating to Soil and Water Conservation Districts and Watershed Improvement Districts

Gibbons

Soil and Water Conservation Districts and Watershed Improvement Districts: Revises eligibility requirements to vote in referendum on creation or discontinuance of soil & water conservation district & on creation of watershed improvement district. Effective Date: July 1, 2008

2/7/2008 HOUSE Filed

2/13/2008 HOUSE Referred to Environment & Natural Resources Council

3/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council

Identical

[SB 1710](#) Relating to Soil & Water Conservation/Watershed Improvement

2/27/2008 SENATE Referred to Agriculture; Environmental Preservation and Conservation; Community Affairs

HB 0877 Relating to Working Waterfront Real Property

Needelman

Working Waterfront Real Property: Authorizes owners of working waterfront real property to convey development rights to such property to county or municipality; authorizes counties or municipalities to enter into agreements with owners of working waterfront real property to acquire development rights to such property for specified consideration & for specified periods; provides for renewals; authorizes owners to opt out of conveyance, subject to specified payment; provides for assessing such property; requires specified counties or municipalities to include within local government comprehensive plans provisions to protect working waterfront property; provides duties of property appraisers. Effective Date: upon becoming a law

2/7/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[SB 2294](#) Relating to Working Waterfront Real Property

2/26/2008 SENATE Filed

HB 0881 Relating to Property Rights

Precourt

Property Rights: Revises Bert J. Harris, Jr., Private Property Rights Protection Act; revises definition of "inordinate burden" or "inordinately burdened"; shortens notice period for certain actions; provides for state land planning agency to receive notice of claims; revises procedures for determining governmental entity's final decision identifying allowable uses for property; extends period of time for bringing an action; provides that enactment of law or adoption of regulation does not constitute applying law or regulation; provides for waiver of sovereign immunity for liability; provides for prospective application.

2/8/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Safety & Security Council; Policy & Budget Council
2/21/2008 HOUSE Referred to Committee on Constitution & Civil Law by Safety & Security Council

Identical

[SB 1578](#) Relating to Property Rights

2/21/2008 SENATE Referred to Community Affairs; Judiciary; Transportation and Economic Development Appropriations

SB 0884 Relating to Obsolete/Outdated Agency Plans/Reports/Programs Haridopolos
Obsolete/Outdated Agency Plans/Reports/Programs; Amends, deletes, and repeals obsolete or outdated agency plans, reports, and programs, etc. EFFECTIVE DATE: Upon becoming law.

12/21/2007 SENATE Filed

1/24/2008 SENATE Referred to Governmental Operations; Community Affairs; Judiciary; Finance and Tax; General Government Appropriations

Compare

[SB 1312](#) Relating to Petroleum Cleanup

2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules

[HB 1329](#) Relating to Infrastructure

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

[SB 2216](#) Relating to Adult Protection and Care/DCFS

SENATE Referred to Children, Families, and Elder Affairs; Health Regulation;
3/7/2008 Health and Human Services Appropriations; On Committee agenda - Children, Families, and Elder Affairs, 03/12/08, 2:30 pm, 412 K

[SB 2788](#) Relating to Tax Administration

3/3/2008 SENATE Filed

HB 0899 Relating to Department of Transportation Bullard (E)

Department of Transportation: Requires department to conduct study of alternative highway routes parallel to Interstate 95. Effective Date: July 1, 2008

2/11/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

2/27/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Compare

[SB 0682](#) Relating to Interstate 95/Alternative Routes Study

3/6/2008 SENATE Now in Transportation and Economic Development Appropriations

SB 0904 Relating to Public Records and Meetings Exemptions Dawson

Public Records and Meetings Exemptions [SPCC]; Expresses the legislative intent to revise laws relating to exemption from requirements for public records and meetings. EFFECTIVE DATE: Upon becoming law.

12/26/2007 SENATE Filed

1/24/2008 SENATE Referred to Health Policy; Governmental Operations; Health and Human Services Appropriations; Rules

HB 0905 Relating to Disposition of Public Property for Affordable Housing McKeel

Disposition of Public Property for Affordable Housing: Provides for county & municipality ineligibility to receive state funding for affordable housing for failing to complete & update inventory list of surplus real property; increases frequency required of managers of state lands under management or use plans to evaluate & indicate to BTII Trust Fund which lands are not being used for specified purposes; requires Division of State Lands to annually submit to Legislature state inventory of specified lands; requires publication of inventory on division's website & notification of local governments; requires district school boards to prepare inventory list of surplus district real property; requires boards to review list & determine appropriateness of properties for affordable housing; requires boards to state public purpose for use of specified properties; authorizes boards to dispose of specified properties for affordable housing purposes; provides for ineligibility of boards to receive

Merit Award Program funding for failing to complete & update inventory list of specified real property; requires boards to certify completing & updating inventory list of specified real property for Merit Award Program funding eligibility; specifies ineligibility for such funding until completing & updating such list. Effective Date: July 1, 2008

2/11/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[SB 2562](#) Relating to Surplus Lands Available for Affordable Housing

2/29/2008 SENATE Filed

HB 0911 Relating to Developments of Regional Impact

Grimsley

Developments of Regional Impact: Exempts proposed developments involving medical technology, biotechnology, or life sciences which meet specified criteria from review as DRI.

Effective Date: July 1, 2008

2/12/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 1706](#) Relating to Developments of Regional Impact

2/27/2008 SENATE Referred to Community Affairs; Commerce; Transportation; Higher Education

HB 0927 Relating to Affordable Housing

Boyd

Affordable Housing: Requires scoring system for applications submitted to State Apartment Incentive Loan Program to include specified projects in its criteria. Effective Date: July 1, 2008

2/13/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 2596](#) Relating to Affordable Housing

2/29/2008 SENATE Filed

SB 0928 Relating to Economic Development

Diaz de la Portilla

Economic Development [EPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Finance and Tax; Transportation and Economic Development Appropriations; Rules

HB 0929 Relating to Community Contribution Corporate Income Tax Credit

Scioni

Community Contribution Corporate Income Tax Credit: Revises definition of term "project" to expand types of projects eligible for credit to include public broadcasting educational programs & materials related to specified projects. Effective Date: July 1, 2008

2/13/2008 HOUSE Filed

2/18/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 2524](#) Relating to Community Contribution Corporate Income Tax Credit

2/29/2008 SENATE Filed

SB 0930 Relating to Economic Development

Diaz de la Portilla

Economic Development; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Finance and Tax; Transportation and Economic Development Appropriations; Rules

SB 0932 Relating to Economic Development

Diaz de la Portilla

Economic Development [EPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Finance and Tax; Transportation and Economic Development Appropriations; Rules

SB 0934 Relating to Economic Development

Diaz de la Portilla

Economic Development [EPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Finance and Tax; Transportation and Economic Development Appropriations; Rules

SB 0936 Relating to Economic Development

Diaz de la Portilla

Economic Development [EPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Finance and Tax; Transportation and Economic Development Appropriations; Rules

SB 0938 Relating to Workforce Development

Diaz de la Portilla

Workforce Development [EPCC]; Expresses the legislative intent to revise laws relating to workforce development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Higher Education; Transportation and Economic Development Appropriations; Rules

SB 0940 Relating to the Agency for Workforce Development

Diaz de la Portilla

Agency for Workforce Development [EPCC]; Expresses the legislative intent to revise laws relating to the Agency for Workforce Development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Governmental Operations; Transportation and Economic Development Appropriations; Rules

SB 0942 Relating to Workforce Development

Diaz de la Portilla

Workforce Development [EPCC]; Expresses the legislative intent to revise laws relating to workforce development. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Higher Education; Transportation and Economic Development Appropriations; Rules

SB 0948 Relating to the Department of Agriculture and Consumer Services

Diaz de la Portilla

Department of Agriculture and Consumer Services [EPCC]; Expresses the legislative intent to revise laws relating to the Department of Agriculture and Consumer Services. EFFECTIVE DATE: Upon becoming law.

1/3/2008 SENATE Filed

1/24/2008 SENATE Referred to Commerce; Governmental Operations; General Government Appropriations; Rules

SB 0950 Relating to the Department of Agriculture and Consumer Services

Diaz de la Portilla

Department of Agriculture and Consumer Services [EPCC]; Expresses the legislative intent to revise laws relating to the Department of Agriculture and Consumer Services.

EFFECTIVE DATE: Upon becoming law.
1/3/2008 SENATE Filed
1/24/2008 SENATE Referred to Commerce; Governmental Operations; General Government Appropriations; Rules

SB 0952 Relating to the Department of Agriculture and Consumer Services Diaz de la Portilla
Department of Agriculture and Consumer Services [EPCC]; Expresses the legislative intent to revise laws relating to the Department of Agriculture and Consumer Services.
EFFECTIVE DATE: Upon becoming law.
1/3/2008 SENATE Filed
1/24/2008 SENATE Referred to Commerce; Governmental Operations; General Government Appropriations; Rules

HB 0959 Relating to Workforce Innovation Chestnut
Workforce Innovation: Authorizes designation of regional workforce board as one-stop operator & direct provider of certain services by agreement of the Governor & regional designated chief elected official. Effective Date: July 1, 2008
2/15/2008 HOUSE Filed
2/28/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[SB 0428](#) Relating to Regional Workforce Board/One-stop Operator
3/6/2008 SENATE Now in Community Affairs

HB 0961 Relating to Cleanup of Sites Contaminated by Petroleum Machek
Cleanup of Sites Contaminated by Petroleum: Increases public funding for restoration of certain sites contaminated by petroleum; provides criteria for site eligibility for funding; prohibits reimbursements for expenses incurred outside petroleum cleanup preapproved site rehabilitation program administered by DEP; provides requirements concerning preapproved site rehabilitation agreements that govern submittal of invoices to department & payment of subcontractors; provides that exemption from requirements concerning payments to subcontractors & suppliers does not apply to payments associated with such preapproved agreements; increases amount of funds available under Florida Petroleum Liability and Restoration Insurance Program for certain incidents or discharges.
2/18/2008 HOUSE Filed
2/28/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

Similar

[SB 1982](#) Relating to Cleanup of Contaminated Petroleum Sites
SENATE Referred to Environmental Preservation and Conservation;
2/27/2008 Governmental Operations; Finance and Tax; General Government Appropriations

HB 0975 Relating to Onsite Sewage Treatment and Disposal Systems Nelson
Onsite Sewage Treatment and Disposal Systems: Directs DOH to conduct or contract for study to develop & evaluate certain sewage & disposal systems; provides appropriation; provides for periodic inspection of certain onsite sewage treatment & disposal systems; establishes Wekiva Onsite Sewage Treatment and Disposal System Compliance Grant Program for the purposes of providing grants to low-income property owners; directs DOH, DEP, & SJRWMD to conduct specified evaluations. Effective Date: July 1, 2008
2/18/2008 HOUSE Filed
2/28/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

Compare

[SB 0570](#) Relating to Wekiva Onsite Sewage Treatment Grant Program

12/13/2007 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; Health and Human Services Appropriations
[SB 1482](#) Relating to Onsite Sewage Treatment and Disposal Systems
2/21/2008 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; Health and Human Services Appropriations; General Government Appropriations

HB 0977 Relating to Public Transit Safety Thompson (G)
Public Transit Safety: Creates "Public Transit Safety Act" to require every public transit provider to provide transit system drivers appropriate rest period for restroom purposes & provide for different rest periods to be established by collective bargaining. Effective Date: July 1, 2008
2/18/2008 HOUSE Filed
2/28/2008 HOUSE Referred to Economic Expansion & Infrastructure Council
3/3/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Compare

[SB 0518](#) Relating to Public Transit/Restroom Breaks for Operators
12/13/2007 SENATE Referred to Transportation; Community Affairs; Governmental Operations

SB 0986 Relating to Local Government Infrastructure Surtax/Housing Jones
Local Government Infrastructure Surtax/Housing [RPCC]; Redefines "infrastructure" to allow the proceeds of a local government infrastructure surtax to be used to purchase land for the construction of affordable or workforce housing units, etc. EFFECTIVE DATE: 07/01/2008.
1/7/2008 SENATE Filed
1/24/2008 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

Identical

[HB 0553](#) Relating to Local Government Infrastructure Surtax
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

HB 0991 Relating to Public Meetings/Governing Boards of Local Government Authorities Hukill
Public Meetings/Governing Boards of Local Government Authorities: Creates "Vox Populi ? Voice of the People Act"; provides definitions; provides purpose; provides requirements with respect to decorum in meetings of governing boards of local government authorities; requires governing body of local government authority to provide specified opportunities for citizens to address issues at meetings of governing body; prescribes allocations of time for citizen participation; provides restrictions with respect to placement of non-agenda & citizen-participation orders of business within order of consideration; provides procedures & requirements with respect to specified orders of business & agendas of meetings of governing boards of local government authorities; defines "public hearings"; requires local government authorities to adopt written policy that implements requirements of act by specified date; provides for public & electronic notification of policy; provides construction of act. Effective Date: July 1, 2008
2/19/2008 HOUSE Filed
2/28/2008 HOUSE Referred to Government Efficiency & Accountability Council
3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council

Identical

[SB 2276](#) Relating to Vox Populi - Voice of the People Act
2/25/2008 SENATE Filed

SB 1020 Relating to Affordable Housing for Veterans Geller
Affordable Housing for Veterans; Increases the amount of the documentary tax distributed

to the State Housing Trust Fund. Provides that the increased amount is to be used to fund loans to veterans for affordable housing through the Florida Homeownership Assistance Program, etc. APPROPRIATION: \$20,000,000. EFFECTIVE DATE: 07/01/2008.

1/9/2008 SENATE Filed

1/24/2008 SENATE Referred to Community Affairs; Military Affairs and Domestic Security; Finance and Tax; Transportation and Economic Development Appropriations

Identical

[HB 1471](#) Relating to Affordable Housing for Veterans

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 1040 Relating to Electrical Power Plants

Bennett

Electrical Power Plants; Revises the thresholds and applicability standards of the Florida Electrical Power Plant Siting Act. Exempts an electrical generating facility that expands its capacity by 75 megawatts or less, etc. EFFECTIVE DATE: 07/01/2008.

1/10/2008 SENATE Filed

1/24/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities

HB 1053 Relating to Public Employment

Kriseman

Public Employment: Provides certain public employees' domestic partners, children of domestic partners, & parents of domestic partners with certain rights, powers, & responsibilities relating to specified public benefits. Effective Date: July 1, 2008

2/21/2008 HOUSE Filed

3/2/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council

3/6/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

SB 1070 Relating to Intergovernmental Cooperation

King, Jr.

Intergovernmental Cooperation [RPCC]; Permits parties of interlocal agreements to provide for the use or maintenance of facilities or equipment of another party on a cost-reimbursement basis or on the basis of educational benefits received by the employees of a party or students of the public agency, etc. EFFECTIVE DATE: Upon becoming law.

2/11/2008 SENATE On Committee agenda - Community Affairs, 02/21/08, 9:00 am, 412 K

2/21/2008 SENATE Favorable by Community Affairs; 7 Yeas, 0 Nays; Now in Education Pre-K - 12

3/7/2008 SENATE On Committee agenda - Education Pre-K - 12, 03/12/08, 2:30 pm, 110 S

Identical

[HB 0445](#) Relating to Intergovernmental Cooperation

3/4/2008 HOUSE Favorable with 1 Amendment by Education Innovation & Career Preparation; 8 Yeas, 0 Nays

SB 1088 Relating to Emergency Management Powers

Rich

Emergency Management Powers [RPCC]; Requires the Division of Emergency Management to review and comment on developments of regional impact, etc. EFFECTIVE DATE: Upon becoming law.

1/11/2008 SENATE Filed

1/24/2008 SENATE Referred to Community Affairs; Military Affairs and Domestic Security

Identical

[HB 1353](#) Relating to Emergency Management Powers

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

HB 1091 Relating to Financial Assistance for Contaminated Petroleum Storage Sites

Attkisson

Financial Assistance for Contaminated Petroleum Storage Sites: Defines term "acquired"; provides for financial assistance in certain additional circumstances involving transfer of contaminated property. Effective Date: July 1, 2008

3/2/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural

Resources Council
3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H
Identical

[SB 0666](#) Relating to Abandoned Petroleum Storage/Financial Assistance
HOUSE SENATE Withdrawn from Environmental Preservation and Conservation; Judiciary; General Government Appropriations; Withdrawn prior to introduction

[SB 2018](#) Relating to Abandoned Petroleum Storage/Financial Assistance
2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Judiciary; General Government Appropriations

HB 1093 Relating to Impact Fees

Sands

Impact Fees: Revises requirements for impact fees adopted by counties, municipalities, & special districts; requires independent verification of certain data; revises notice requirements for imposition of impact fees. Effective Date: upon becoming a law

2/25/2008 HOUSE Filed

3/2/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 0662](#) Relating to Impact Fees
2/7/2008 SENATE Withdrawn from Community Affairs; Finance and Tax; Withdrawn prior to introduction

[SB 2050](#) Relating to Impact Fees
3/7/2008 SENATE Referred to Community Affairs; Finance and Tax

SB 1094 Relating to Gambling Vessels/Clean Ocean Act

Haridopolos

Gambling Vessels/Clean Ocean Act [RPCC]; Requires that owners or operators of gambling vessels operating in coastal waters register with the Department of Environmental Protection (DEP) prior to entering the coastal waters of the state. Requires waterfront-landing facilities to establish procedures for the release of waste from gambling vessels berthed at the facilities, etc. EFFECTIVE DATE: 07/01/2008.

1/11/2008 SENATE Filed

1/24/2008 SENATE Referred to Environmental Preservation and Conservation; Military Affairs and Domestic Security; Regulated Industries; General Government Appropriations

Compare

[SB 0326](#) Relating to Vessels/Clean Ocean Act
SENATE Referred to Environmental Preservation and Conservation; Military Affairs and Domestic Security; Regulated Industries; General Government Appropriations

Identical

[HB 0897](#) Relating to Regulation of Releases from Gambling Vessels
3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H

HB 1095 Relating to Specialty License Plates

Jordan

Specialty License Plates: Creates St. Johns River license plate; establishes annual use fee for plate; provides for distribution of use fees received from sale of such plates. Effective Date: July 1, 2008

2/25/2008 HOUSE Filed

3/2/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

3/3/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Identical

[SB 2312](#) Relating to St. Johns River License Plate
2/26/2008 SENATE Filed

- SB 1102 Relating to High-occupancy-vehicle (HOV) Lanes** Geller
 High-occupancy-vehicle (HOV) Lanes [EPCC]; Requires that all eligible hybrid and other low-emission and energy-efficient vehicles using HOV lanes comply with the minimum fuel economy standards. Provides that the eligibility of these vehicles, regardless of occupancy, shall be determined in accordance with the applicable final rule issued by the United States Environmental Protection Agency. Provides for continued toll-free use of any HOV lane facility, etc. EFFECTIVE DATE: 07/01/2008.
 1/14/2008 SENATE Filed
 2/7/2008 SENATE Referred to Transportation; Environmental Preservation and Conservation; Transportation and Economic Development Appropriations
- Compare**
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- [HB 1399](#) Relating to Department of Transportation
 3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
- [SB 1992](#) Relating to Department of Highway Safety and Motor Vehicles
 3/6/2008 SENATE On Committee agenda - Transportation, 03/11/08, 9:00 am, 37 S
- Identical**
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- [HB 0387](#) Relating to Use of High-Occupancy-Vehicle Lanes
 1/29/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council
- HB 1113 Relating to Code of Ethics for Public Officers and Employees** Patterson
 Code of Ethics for Public Officers and Employees: Redefines "business entity"; prescribes local government attorneys' duties with respect to advising public officers & employees; provides that failure to give advice is not violation of code; prohibits public officials from appointing or advancing relatives under certain circumstances; provides penalties for violations; revises disclosure requirements for state officers, appointed state officers, & local officers; prohibits certain conduct that would result in special gain or loss to certain parties; provides disclosure requirements; redefines "local officer"; requires financial interest statement to show method of reporting individual's financial interests; redefines "procurement employee"; defines "vendor"; prohibits soliciting & accepting gift & honorarium from certain vendors; requires investigation of complaints that allege certain expenditures; provides for investigation of lobbyists & principals; provides penalties; specifies standards of conduct for certain individuals serving as chief administrative officers of political subdivisions; provides penalties to be imposed against individuals other than lobbyists or public officers & employees; provides for Commission on Ethics to report certain violations to Governor. Effective Date: January 1, 2009
 2/25/2008 HOUSE Filed
 3/2/2008 HOUSE Referred to Economic Expansion & Infrastructure Council
 3/3/2008 HOUSE Referred to Committee on Ethics & Elections by Economic Expansion & Infrastructure Council
- Compare**
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- [SB 0322](#) Relating to Political Subdivision/Officer & Employee Conduct
 2/18/2008 SENATE Placed on Calendar, on second reading
- SB 1122 Relating to Siting of Power Plants and Transmission Lines** Saunders (B)
 Siting of Power Plants and Transmission Lines [RPCC]; Requires local governments or regional planning councils to provide notice of an informational meeting relating to the Florida Electric Power Plant Siting Act or the Florida Electric Transmission Line Siting Act to all parties not less than 15 days prior to such meeting, etc. EFFECTIVE DATE: 07/01/2008.
 1/18/2008 SENATE Filed
 2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Community Affairs
- HB 1135 Relating to Everglades Restoration Bonds** Mayfield
 Everglades Restoration Bonds: Extends period during which Everglades restoration bonds may be issued; increases amount of such bonds that may be issued each fiscal year. Effective Date: July 1, 2008

2/26/2008 HOUSE Filed
3/2/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

Identical

[SB 1552](#) Relating to Everglades Restoration Bonds
3/10/2008 SENATE On Committee agenda - Environmental Preservation and Conservation,
03/13/08, 9:00 am, 401 S

HB 1165 Relating to Renewable Energy

McKeel

Renewable Energy: Creates Task Force on Oil & Natural Gas Inventory; revises provisions relating to renewable energy source exemption; provides tax exemption for sale or use of renewable fuel; provides for transfer of renewable energy technologies investment tax credit; repeals implementing bill reversion provision relating to Renewable Energy Technologies Grants program; revises provisions relating to solar energy system incentives; extends Farm-to-Fuel Grants Program; requires DOR & DEP to adopt rules. Effective Date: July 1, 2008

2/26/2008 HOUSE Filed
3/2/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
3/7/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

Compare

[HB 0229](#) Relating to Tax Credits for Renewable Energy Technologies

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0310](#) Relating to Biomass Energy Production

3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0314](#) Relating to Renewable Energy Technologies Tax Credits

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

Similar

[SB 2250](#) Relating to Renewable Energy

SENATE Referred to Environmental Preservation and Conservation;
3/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

HB 1173 Relating to Land Development Regulation

Mayfield

Land Development Regulation: Provides for use of certain lands surrounding agricultural enclave; creates rebuttable presumption for imposition of certain development conditions relating to agricultural enclaves; provides timeframe for submitting certain information relating to proposed plan amendments; creates rebuttable presumption for denial of or failure to approve plan amendments relating to agricultural enclaves; revises provisions relating to optional sector plans; provides applicability to certain pending applications. Effective Date: July 1, 2008

2/26/2008 HOUSE Filed
3/2/2008 HOUSE Referred to Environment & Natural Resources Council
3/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council

Similar

[SB 2246](#) Relating to Land Development Regulations

3/7/2008 SENATE Referred to Agriculture; General Government Appropriations

HB 1175 Relating to Transportation Disadvantaged Services Robaina
 Transportation Disadvantaged Services: Revises requirement for quorum of Commission for the Transportation Disadvantaged; revises duties of commission relating to coordination of transportation services, trip purchases, use of alternative providers, reports on expenditures, rulemaking, & quality assurance & management review program; authorizes commission to incur expenses for purchase of advertisements, marketing, & promotional items; provides duties & responsibilities for purchasing agencies; revises functions of metropolitan planning organization or designated official planning agency in coordinating transportation services; revises requirements for report on funds; revises duties of community transportation coordinators, coordinating boards, school boards, & local transit systems; revises provisions for use of funds in Transportation Disadvantaged Trust Fund; removes limitation on application of specified provisions to Medicaid agency. Effective Date: July 1, 2008
 2/26/2008 HOUSE Filed
 3/5/2008 HOUSE Referred to Healthcare Council; Policy & Budget Council
Similar

[SB 0788](#) Relating to Transportation Disadvantaged/Services
 3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K

SB 1178 Relating to Renewable Energy Technologies & Energy Efficiency Dockery
 Renewable Energy Technologies & Energy Efficiency [RPCC]; Cites this act as the "Florida Net Metering Incentive Act." Defines "net metering" as a process by which an electric utility credits a customer at the full retail rate for electricity produced by one or more renewable energy systems generating more electricity than the customer consumes. Establishes the Net Metering Incentive Program within the Department of Environmental Protection, etc.
 EFFECTIVE DATE: Upon becoming law.
 1/23/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 01/25/08, 9:00 am, 301 C (No Votes Will Be Taken)
 1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
 2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations
Compare

[SB 0308](#) Relating to Energy Conservation
 SENATE Referred to Environmental Preservation and Conservation;
 11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
[SB 0412](#) Relating to Energy
 SENATE Referred to Environmental Preservation and Conservation;
 12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
[HB 0557](#) Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering
 1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
[SB 1382](#) Relating to Net Metering
 SENATE Referred to Communications and Public Utilities; Environmental
 2/21/2008 Preservation and Conservation; Finance and Tax; General Government Appropriations
[SB 1432](#) Relating to Renewable Energy Generation and Net Metering
 SENATE Referred to Communications and Public Utilities; Environmental
 2/21/2008 Preservation and Conservation; Finance and Tax; General Government Appropriations
Similar

[HB 0457](#) Relating to Renewable Energy Technologies and Energy Efficiency
 1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

- SB 1180 Relating to Pasco County/Water-wastewater Utility System** Fasano
Pasco County/Water-wastewater Utility System [RPCC]; Requires the Department of Environmental Protection to distribute financial assistance to Pasco County for the purpose of acquiring Aloha Utilities, Inc. Requires the county to issue bonds to fully fund the acquisition, etc. APPROPRIATION: \$6,000,000. EFFECTIVE DATE: 07/01/2008.
1/18/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Communications and Public Utilities; General Government Appropriations
2/20/2008 SENATE Reference to Community Affairs removed; References corrected to Environmental Preservation and Conservation; General Government Appropriations
- Identical**
-
- [HB 0591](#) Relating to Acquisition of a Privately Owned Water-Wastewater Utility System
2/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council
- HB 1183 Relating to Community Redevelopment Areas** Bullard (E)
Community Redevelopment Areas: Expands definition of term "blighted area" to include land previously used as military facility. Effective Date: July 1, 2008
2/27/2008 HOUSE Filed
3/2/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- Identical**
-
- [SB 2728](#) Relating to Community Redevelopment/Blighted Areas
3/3/2008 SENATE Filed
- HB 1191 Relating to Green Building Construction** Jenne
Green Building Construction: Provides for sales tax credit for green building construction; provides for corporate income tax credit for green building construction; provides for additional member of Florida Building Commission; creates Florida Green Building Act; requires state-funded major facility projects to be constructed to meet specified energy & environmental design rating systems; provides for application to public agencies; exempts specified affordable housing projects; provides duties of various state agencies & OPPAGA; creates Florida Green Building Council in DCA. Effective Date: July 1, 2008
2/27/2008 HOUSE Filed
3/2/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
3/7/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council
- Identical**
-
- [SB 2530](#) Relating to Green Building Construction
2/29/2008 SENATE Filed
- HB 1207 Relating to Railroads** Homan
Railroads: Requires public railroad-highway grade crossings opened after certain date to be maintained by railroad company at its own expense; provides that certain responsibilities of railroad to maintain & inspect public railroad-highway grade signal crossings shall not be abrogated, transferred, or nullified by contract or administrative rule; directs DOT to amend specified rules to delete provision for department participation in cost of maintaining grade crossing traffic control devices located on State Highway System; provides authorization for governmental entities to access railroad real property adjoining public property as necessary to plan, facilitate, & complete road or highway construction, improvement, or repair projects, subject to specified procedures. Effective Date: July 1, 2008
2/28/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council
- Identical**
-
- [SB 2792](#) Relating to Railroads
3/3/2008 SENATE Filed

- SB 1208 Relating to Water Pollution Control** Gaetz
 Water Pollution Control [RPCC]; Revises provisions relating to total maximum daily loads. Provides requirements for basin management action plans. Allows such plans to take into account the benefits of pollutant load reduction achieved by point or nonpoint sources, where appropriate. Requires that the Department of Environmental Protection adopt all or part of any such plan, or any amendment thereto, by secretarial order as provided by state law, etc. EFFECTIVE DATE: 07/01/2008.
 1/18/2008 SENATE Filed
 2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations
- Identical**
[HB 0547](#) Relating to Water Pollution Control
 3/10/2008 HOUSE Committee Substitute (C1) Filed; Now in Policy & Budget Council; On Council agenda - Policy & Budget Council, 03/11/08, 1:00 pm, 212 K
- SB 1210 Relating to Special Districts/Charter Codification** Baker
 Special Districts/Charter Codification; Declares that it is the policy of the state to codify the charter of each independent and dependent special district every 10 years. Require each governmental entity that creates an independent or dependent special district to be responsible for the subsequent examination of the charter. Requires that the Legislature dispose of the assets of a special district it abolishes and assign the district's powers and duties, etc. EFFECTIVE DATE: 07/01/2008.
 1/22/2008 SENATE Filed
 2/7/2008 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations
- Identical**
[HB 0795](#) Relating to Special Districts
 3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council
- SB 1212 Relating to Lake Jesup Restoration** Constantine
 Lake Jesup Restoration [RPCC]; Requires the Department of Environmental Protection, the St. Johns River Water Management District, the Fish and Wildlife Conservation Commission (FWC), and the City of Sanford to develop a plan for the removal of muck from the bottom of Lake Jesup in Seminole County as is contemplated in the FWC's project to restore aquatic habitats in Lake Jesup, etc. EFFECTIVE DATE: 07/01/2008.
 1/22/2008 SENATE Filed
 2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations
- SB 1214 Relating to Wekiva Parkway Protection Act** Constantine
 Wekiva Parkway Protection Act [RPCC]; Requires all agencies and local governments having responsibilities under the Wekiva Parkway Protection Act to make an annual progress report to the Legislature on or before December 31, 2008, and thereafter on or before December 31 of each year, etc. EFFECTIVE DATE: Upon becoming law.
 1/22/2008 SENATE Filed
 2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs
- HB 1229 Relating to State Economic Development Incentives for the Recreational Marine Industry** Skidmore
 State Economic Development Incentives for the Recreational Marine Industry: Creates Recreational Marine Business Retention Program within EFI; provides goals for program, including recruiting new & supporting existing marine businesses in state & promoting state's recreational marine industry through various venues; requires EFI, with DEP, to submit report to Legislature regarding effect of expedited permitting process on program goals; requires EFI to work with OTTED to provide additional tax incentives for recreational marine industry. Effective Date: July 1, 2008
 2/28/2008 HOUSE Filed
 3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
 3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion &

Identical

[SB 2304](#) Relating to Recreational Marine Industry/Economic Development
2/26/2008 SENATE Filed

HB 1231 Relating to Key Largo Wastewater Treatment District, Monroe County Saunders (R)

Key Largo Wastewater Treatment District, Monroe County: Provides that district is not subject to certain local regulations, is not obligated to obtain licenses, permits, or authorizations required by state & local regulating agencies, & is not subject to supervision, regulation, or other power of any state agency with respect to rate setting. Effective Date: upon becoming a law

2/28/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council

SB 1242 Relating to Environmental Permitting Jones

Environmental Permitting; Requires the Department of Environmental Protection (DEP) to conduct a study and implement a plan to provide parity in salaries for permitting staff. Requires the DEP to develop a plan to implement the remaining phases of an e-permitting program relating to permit applications and compliance. Requires the DEP to submit such plans to the Legislature and the Legislative Committee on Intergovernmental Relations, etc. EFFECTIVE DATE: Upon becoming law.

1/22/2008 SENATE Filed

2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Governmental Operations; General Government Appropriations

HB 1245 Relating to Regional Transportation Authorities Galvano

Regional Transportation Authorities: Provides for deposit of specified percentage of rental car surcharge revenues into accounts of specified regional transportation authorities; requires DOR to provide authorities with annual surcharge revenue information; relieves DOR of funding obligations to authorities to conform; revises DOR obligation to fund authorities under specified circumstances; relieves specified counties of funding obligations to South Florida Regional Transportation Authority under specified circumstances. Effective Date: July 1, 2008

2/29/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Compare

[SB 1512](#) Relating to Transportation and Transit Authorities
SENATE Referred to Transportation; Community Affairs; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

SB 1248 Relating to Energy Bennett

Energy; Expresses the legislative intent to revise laws relating to energy. EFFECTIVE DATE: 07/01/2008.

1/22/2008 SENATE Filed

2/7/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; General Government Appropriations; Rules

SB 1252 Relating to Electric Utilities Bennett

Electric Utilities; Expresses the legislative intent to revise laws relating to electric utilities. EFFECTIVE DATE: 07/01/2008.

1/22/2008 SENATE Filed

2/7/2008 SENATE Referred to Communications and Public Utilities; General Government Appropriations; Rules

SB 1254 Relating to Energy Security Bennett

Energy Security; Expresses the legislative intent to revise laws relating to energy security.
EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; General Government Appropriations; Rules

- SB 1256 Relating to Telecommunications** Bennett
Telecommunications; Expresses the legislative intent to revise laws relating to telecommunications. EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Referred to Communications and Public Utilities; General Government Appropriations; Rules
- SB 1258 Relating to Electric Utilities** Bennett
Electric Utilities; Expresses the legislative intent to revise laws relating to electric utilities. EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Referred to Communications and Public Utilities; General Government Appropriations; Rules
- SB 1260 Relating to Water and Wastewater** Bennett
Water and Wastewater; Expresses the legislative intent to revise laws relating to water and wastewater. EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; General Government Appropriations; Rules
- SB 1262 Relating to Energy** Bennett
Energy; Expresses the legislative intent to revise laws relating to energy. EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; General Government Appropriations; Rules
- SB 1264 Relating to Handguns/Purchase and Delivery** Bennett
Handguns/Purchase and Delivery; Exempts a law enforcement officer purchasing a handgun from the mandatory 3-day waiting period running between the purchase of a handgun and the delivery at retail of a handgun, etc. EFFECTIVE DATE: 07/01/2008.
1/22/2008 SENATE Filed
2/7/2008 SENATE Withdrawn prior to introduction
- HB 1267 Relating to Protecting Urban and Residential Environments & Water** Nelson
Protecting Urban and Residential Environments & Water: Creates "Protection of Urban & Residential Environments & Water Act;" requires local governments to adopt "Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance" by time certain; provides for exceptions & for additions to ordinance; requires person who applies fertilizer commercially to urban turf to be certified by DACS; provides requirements for training for applicants; requires training program to be designed, approved, & made available by DEP & IFAS; requires trainer certification; provides for commercial fertilizer applicator recertification & requires maintenance of certain fertilizer application information; authorizes information to be shared with specified state & local agencies. Effective Date: upon becoming a law
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
Identical
[SB 2352](#) Relating to Urban/Residential Environments and Water
2/27/2008 SENATE Filed
- HB 1277 Relating to Enterprise Zone Jobs Credit Against Sales Tax** Grimsley
Enterprise Zone Jobs Credit Against Sales Tax: Revises definition of "job" to include employment of employees by specified corporations in enterprise zone. Effective Date: July

1, 2008
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[SB 2736](#) Relating to Enterprise Zone Jobs Tax Credit
3/3/2008 SENATE Filed

HB 1287 Relating to Transportation Disadvantaged Richardson
Transportation Disadvantaged: Revises fee charged on initial & renewal registration of certain motor vehicles & trucks & deposited into Transportation Disadvantaged Trust Fund. Effective Date: July 1, 2008
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

HB 1289 Relating to Seaport Development Patronis
Seaport Development: Prescribes when certain funds will become subject to appropriation; revises distribution of license tax moneys deposited in State Transportation Trust Fund for funding of Florida Seaport Transportation & Economic Development Program & certain seaport intermodal access projects; requires DOT to include selected projects for funding in tentative work program; provides that specified bonds shall be issued by Division of Bond Finance at request of DOT; provides for funding construction or rehabilitation of wharves, docks, or similar structures; provides for funding certain seaport intermodal access projects; requires match; provides for issuance of bonds for such projects; creates Florida Seaport Finance Corporation; authorizes issuance & validation of bonds. Effective Date: July 1, 2008
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Similar

[SB 1644](#) Relating to Transportation
2/27/2008 SENATE Referred to Transportation; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

SB 1292 Relating to Land Acquisition/Florida Forever Trust Fund Saunders (B)
Land Acquisition/Florida Forever Trust Fund; Eliminates an obsolete provision relating to the distribution of funds in the Florida Forever Trust Fund to the South Florida Water Management District, etc. EFFECTIVE DATE: 07/01/2008.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules

SB 1294 Relating to Department of Environmental Protection Saunders (B)
Department of Environmental Protection [RPCC]; Reenacts a specified provision under the Florida Government Accountability Act relating to the establishment of the Department of Environmental Protection, etc. EFFECTIVE DATE: Upon becoming law.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; General Government Appropriations
3/10/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/13/08, 9:00 am, 401 S

HB 1295 Relating to Stimulating the Economy Attkisson
Stimulating the Economy: Provides legislative findings & intent; adds economically targeted investments as authorized investment class; requires inclusion of analysis of economically targeted investments in State Board of Administration's annual report to Legislature; specifies limits on & conditions for investments in economically targeted investments; creates Reusable Space Vehicle Industry Prize Program; provides for cash award; requires

that Lt. Governor serve as chair of program & appoint committee; specifies tasks & rules; provides for termination of program. Effective Date: July 1, 2008
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[SB 2310](#) Relating to Economic Stimulus
2/26/2008 SENATE Filed

- SB 1296 Relating to Water Management Districts** Saunders (B)
Water Management Districts [RPCC]; Reenacts a specified provision under the Florida Government Accountability Act relating to the creation of the water management districts, etc. EFFECTIVE DATE: Upon becoming law.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; General Government Appropriations
- SB 1298 Relating to Submerged Lands/Surcharges** Saunders (B)
Submerged Lands/Surcharges; Eliminates obsolete provisions relating to surcharges for the use of submerged lands, etc. EFFECTIVE DATE: Upon becoming law.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules
- SB 1302 Relating to Maintenance Dredging/Division of Beaches & Shores** Saunders (B)
Maintenance Dredging/Division of Beaches & Shores; Removes an obsolete reference to the Division of Beaches and Shores of the Department of Environmental Protection. Authorizes the department to determine that spoil from maintenance dredge operations may be placed into a beach or dune system, etc. EFFECTIVE DATE: Upon becoming law.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules
- SB 1312 Relating to Petroleum Cleanup** Saunders (B)
Petroleum Cleanup; Eliminates obsolete provisions that require the Department of Environmental Protection to report on preapproved advanced cleanup projects, etc. EFFECTIVE DATE: Upon becoming law.
1/23/2008 SENATE Filed
2/7/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules

Compare

[SB 0884](#) Relating to Obsolete/Outdated Agency Plans/Reports/Programs
1/24/2008 SENATE Referred to Governmental Operations; Community Affairs; Judiciary; Finance and Tax; General Government Appropriations

- SB 1318 Relating to Onsite Sewage Treatment and Disposal Systems** Gaetz
Onsite Sewage Treatment and Disposal Systems [SPCC]; Provides that a member of local government who is knowledgeable about domestic wastewater treatment be added to the research review and advisory committee and the technical review and advisory panel established by the Department of Health for purposes of onsite sewage treatment and disposal system regulation, etc. EFFECTIVE DATE: 07/01/2008.
3/5/2008 SENATE Favorable with 1 Amendment by Health Regulation; 7 Yeas, 0 Nays
3/6/2008 SENATE Now in Governmental Operations
3/10/2008 SENATE On Committee agenda - Governmental Operations, 03/13/08, 9:00 am, 110 S

Identical

[HB 0567](#) Relating to Onsite Sewage Treatment and Disposal Systems

SB 1322 Relating to Economic Development/Local Option Tourist Dev. Tax Siplin
Economic Development/Local Option Tourist Dev. Tax [EPCC]; Allows a county that levies the tax authorized under the Local Option Tourist Development Act to use the tax proceeds to participate with the state in an economic development project to attract to the county high-technology industries including, but not limited to, information technology and communications, biotechnology, and bioinformation, etc. EFFECTIVE DATE: Upon becoming law.
1/24/2008 SENATE Filed
2/7/2008 SENATE Referred to Commerce; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

HB 1329 Relating to Infrastructure Glorioso
Infrastructure: Repeals provisions relating to review & evaluation of urban infill; revises provisions for local government comprehensive plans; revises requirements relating to railroad crossings, commercial motor vehicles, child restraints, issuance of Gold Star license plates, & formal review hearings; revises definition of term "hazardous materials"; provides that DOT performs duties assigned to Field Administrator of Federal Motor Carrier Safety Administration; requires DHSMV to withhold issuing or to suspend registration & license plate for commercial motor vehicle if federal identifying number is not provided or if motor carrier or vehicle owner has been prohibited from operating; provides for violations by person holding commercial driver's license & issuance of notice of disqualification; revises provisions for development of statewide transportation plan by DOT; revises provisions for affordable housing advisory committees; provides for transportation revenue study commission. Effective Date: July 1, 2008
2/29/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

Compare

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- [HB 0699](#) Relating to Affordable Housing
2/27/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
- [SB 0884](#) Relating to Obsolete/Outdated Agency Plans/Reports/Programs
1/24/2008 SENATE Referred to Governmental Operations; Community Affairs; Judiciary; Finance and Tax; General Government Appropriations
- [HB 1111](#) Relating to Department of Highway Safety and Motor Vehicles
----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken); Bill Removed from Office of the EDR's Revenue Estimating Impact Conference for 3/7/08
- [HB 1399](#) Relating to Department of Transportation
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
- [SB 1688](#) Relating to Transportation
2/27/2008 SENATE Referred to Transportation; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations
- [SB 1992](#) Relating to Department of Highway Safety and Motor Vehicles
3/6/2008 SENATE On Committee agenda - Transportation, 03/11/08, 9:00 am, 37 S
- [SB 2096](#) Relating to Department of Transportation
3/7/2008 SENATE Referred to Transportation; Community Affairs; Transportation and Economic Development Appropriations

SB 1348 Relating to Community Reinvestment Plans/Tax Credits Siplin
Community Reinvestment Plans/Tax Credits [EPCC]; Authorizes a business to develop and implement a community reinvestment plan for tax credit purposes. Allows a credit against

the corporate income tax to any business that meets each target set forth in its community reinvestment plan as certified by rule of the Financial Services Commission, etc.
 EFFECTIVE DATE: Upon becoming law.
 1/24/2008 SENATE Filed
 2/21/2008 SENATE Referred to Commerce; Community Affairs; Banking and Insurance; Finance and Tax; General Government Appropriations

HB 1353 Relating to Emergency Management Powers Gonzalez
 Emergency Management Powers: Requires Division of Emergency Management to review & comment on developments of regional impact. Effective Date: upon becoming a law
 3/3/2008 HOUSE Filed
 3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
 3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical
[SB 1088](#) Relating to Emergency Management Powers
 1/24/2008 SENATE Referred to Community Affairs; Military Affairs and Domestic Security

HB 1355 Relating to Space Florida Altman
 Space Florida: Creates Space & Aerospace Development Infrastructure Enhancement Fund in OTTED for use by Space Florida to provide or upgrade space-related infrastructure, partner with applicable businesses on space-related projects, or otherwise provide incentives for space-related ventures & may be used for collateral for bonds; requires Space Florida board of directors & OTTED director to evaluate applicants & make recommendations to Governor; provides for legislative consultation; requires EOG to recommend projects & funding; specifies contract requirements; provides funding of contracts is contingent on appropriation & release of funds. Effective Date: July 1, 2008, if House Bill 1357, or similar legislation, is adopted in the same legislative session or an extension thereof and becomes law
 3/3/2008 HOUSE Filed
 3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
 3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Compare
[SB 2426](#) Relating to Space Florida/Florida Aerospace Development
 2/28/2008 SENATE Filed
[SB 2458](#) Relating to Space & Aerospace Development Infrastructure/TF
 2/28/2008 SENATE Filed

Linked
[HB 1357](#) Relating to Trust Funds/Creation/Space & Aerospace Development Infrastructure Enhancement Fund/OTTED
 3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 1358 Relating to Low and Moderate Income Insurance Assistance Fund Wilson
 Low and Moderate Income Insurance Assistance Fund [RPCC]; Provides for counties to establish a fund for providing no-interest loans to assist low-income and moderate-income homeowners in paying homeowners' insurance premiums, etc. EFFECTIVE DATE: 07/01/2008 except as otherwise provided.
 1/24/2008 SENATE Filed
 2/21/2008 SENATE Referred to Community Affairs; Banking and Insurance; Finance and Tax; General Government Appropriations; Transportation and Economic Development Appropriations

Identical
[HB 1513](#) Relating to Low-income and Moderate-income Homeowners
 3/6/2008 HOUSE Filed

- HB 1361 Relating to State Investments** Gelber
 State Investments: Clarifies provisions relating to retention of independent investment advisers or managers by State Board of Administration; authorizes Investment Advisory Council to review those managers or advisers; requires board to include contingent compensation in operating budget; clarifies that OPPAGA examine board's management of investments; provides that executive director of board is subject to Senate confirmation; expands subject of quarterly report to board by executive director to include certain mortgage securities & certain movements in investment grade of such securities; provides that executive director of board is state officer subject to financial disclosure requirements; revises membership of council; provides that council members are public officers subject to financial disclosure requirements; requires council to submit review & summary of recommended changes to investment policy statement of board before board votes on changes to statement. Effective Date: July 1, 2008
 3/3/2008 HOUSE Filed
 3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council
- Identical**

[SB 2768](#) Relating to State Investments
 3/3/2008 SENATE Filed
- SB 1362 Relating to Affordable Housing Preservation** Fasano
 Affordable Housing Preservation [RPCC]; Creates the Florida Housing Preservation Program. Directs the Florida Housing Finance Corporation to use state funds for loans and financing to preserve and rehabilitate affordable multifamily rental housing properties that are 15 years old or older, and mobile home parks, for low-income, very-low-income, and extremely-low-income persons and families, etc. APPROPRIATION: \$50,000,000. EFFECTIVE DATE: 07/01/2008.
 1/24/2008 SENATE Filed
 2/21/2008 SENATE Referred to Community Affairs; Banking and Insurance; Transportation and Economic Development Appropriations
- HB 1375 Relating to Renewable Energy** Brandenburg
 Renewable Energy: Expands legislative intent relating to state's renewable energy policy; revises definitions of "renewable energy resource" & "renewable energy" & defines "biomass" therein; requires PSC & DEP to submit report to Governor & Legislature relating to state renewable energy opportunities, resources, & technologies; requires PSC & DEP to evaluate certain energy-generation methods; requires PSC to develop & adopt renewable energy portfolio standards. Effective Date: July 1, 2008
 3/3/2008 HOUSE Filed
 3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- Identical**

[SB 2870](#) Relating to Renewable Energy
 3/4/2008 SENATE Filed
- SB 1376 Relating to Agriculture** Alexander
 Agriculture [RPCC]; Expresses the legislative intent to revise laws relating to agriculture. EFFECTIVE DATE: Upon becoming law.
 1/25/2008 SENATE Filed
 2/21/2008 SENATE Referred to Agriculture; General Government Appropriations; Rules
- SB 1378 Relating to United States Flags/Private Property** Fasano
 United States Flags/Private Property [RPCC]; Prohibits certain restrictions that prevent a property owner from flying a United States flag from a flagpole that does not exceed 20 feet in height, etc. EFFECTIVE DATE: 07/01/2008.
 1/25/2008 SENATE Filed
 2/21/2008 SENATE Referred to Community Affairs; Military Affairs and Domestic Security
 3/10/2008 SENATE On Committee agenda - Community Affairs, 03/13/08, 9:00 am, 412 K
- Compare**

[SB 0090](#) Relating to United States Flag Display/Local Ordinances
 11/28/2007 SENATE Referred to Community Affairs; Military Affairs and Domestic Security

[HB 0857](#) Relating to Display of Flags
3/5/2008 HOUSE Favorable with 1 Amendment by Courts; 3 Yeas, 1 Nay; Now in Safety & Security Council

SB 1382 Relating to Net Metering

Bennett

Net Metering [RPCC]; Creates the Florida Net Metering Conservation Act. Directs the Public Service Commission to develop rules requiring public utilities to develop net metering programs under which they make available to customers meters that measure both energy production and consumption by the customer, etc. EFFECTIVE DATE: Upon becoming law.

1/25/2008 SENATE Filed

2/21/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations

Compare

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[HB 0457](#) Relating to Renewable Energy Technologies and Energy Efficiency

1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

[HB 0557](#) Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering

1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

[SB 1178](#) Relating to Renewable Energy Technologies & Energy Efficiency

SENATE Referred to Environmental Preservation and Conservation;
2/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

[SB 1432](#) Relating to Renewable Energy Generation and Net Metering

SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations
2/21/2008

HB 1383 Relating to Energy Efficiency

Randolph

Energy Efficiency: Revises provisions for public utility rate fixing & cost determinations relating to energy conservation & use of alternative energy; requires public utilities to file certain plans with PSC; requires commission to hold public hearings; provides criteria for certain plan determinations by commission; revises provisions for adoption, administration, & implementation of certain plans; authorizes utility rate increases for certain costs; authorizes DCA to coordinate with Florida Building Commission for inspection of products covered in Florida Energy Conservation Standards Act & Florida Building Code; revises list of products covered by Florida Energy Conservation Standards Act; authorizes testing of certain products for energy efficiency; provides energy conservation standards for certain products...

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

Compare

[SB 2702](#) Relating to Energy-efficiency Standards

2/29/2008 SENATE Filed

HB 1391 Relating to Community Redevelopment Agencies

Gonzalez

Community Redevelopment Agencies: Revises requirements concerning reporting by community redevelopment agencies; requires annual reports of progress & plans to governing body; requires agency & county or municipality to make reports available for public inspection; requires reports or information concerning dependent special districts to be annually provided to DCA; requires financial reports or information to be annually provided to DFS; eliminates requirement that community redevelopment agencies file &

make available to public financial reports; provides requirements concerning calculation of increment revenues; revises factors used to calculate increment revenues; limits expenditures made from redevelopment trust fund for undertakings of community redevelopment agency to undertakings within community redevelopment area; provides list of types of authorized expenditures; specifies that list is not exclusive; eliminates requirements concerning auditing of community redevelopment agency's redevelopment trust fund. Effective Date: October 1, 2008

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

Identical

[SB 2518](#) Relating to Community Redevelopment Agencies

2/29/2008 SENATE Filed

- SB 1392 Relating to Public Records and Meetings** Lawson Jr.
Public Records and Meetings [RPCC]; Expresses the legislative intent to create an exemption from public records and public meetings requirements. EFFECTIVE DATE: Upon becoming law.
1/25/2008 SENATE Filed
2/21/2008 SENATE Referred to Governmental Operations; Rules
- SB 1394 Relating to Public Records and Meetings** Lawson Jr.
Public Records and Meetings [RPCC]; Expresses the legislative intent to create an exemption from public records and public meetings requirements. EFFECTIVE DATE: Upon becoming law.
1/25/2008 SENATE Filed
2/21/2008 SENATE Referred to Governmental Operations; Rules
- SB 1396 Relating to Public Records and Meetings** Lawson Jr.
Public Records and Meetings [RPCC]; Expresses the legislative intent to create an exemption from public records and public meetings requirements. EFFECTIVE DATE: Upon becoming law.
1/25/2008 SENATE Filed
2/21/2008 SENATE Referred to Governmental Operations; Rules
- HB 1397 Relating to Alternative Energy** Coley
Alternative Energy: Creates distributed alternative energy generation development initiative; authorizes certain state agencies, universities, & private sector entities to develop & operate distributed alternative energy generation pilot projects; requires electric utilities to provide pilot projects with specified interconnection, net metering, transmission & distribution, & backup & standby power services; provides for pilot projects to receive credit for certain energy generation; requires PSC & DEP to adopt rules; requires DEP to submit annual report to Governor & Legislature. Effective Date: July 1, 2008
3/3/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Environment & Natural Resources Council
- Identical**
-
- [SB 2840](#) Relating to Alternative Energy
3/4/2008 SENATE Filed
- SB 1398 Relating to Research and Development Expenses Tax Credit** Oelrich
Research and Development Expenses Tax Credit [EPCC]; Provides a tax credit for any business or the headquarters of any business that is engaged in the manufacturing, warehousing and distribution, processing, telecommunications, tourism, or research and development industries that has qualified research expenses. Provides this credit if such business claims and is allowed a research credit under s. 41 of the Internal Revenue Code for the same taxable year, etc. EFFECTIVE DATE: 07/01/2008.
1/25/2008 SENATE Filed
2/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/08/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
2/21/2008 SENATE Referred to Commerce; Finance and Tax; General Government Appropriations
- Similar**
-

[HB 0733](#) Relating to Tax Credit for Research and Development Expenses
3/7/2008 HOUSE Now in Economic Expansion & Infrastructure Council

HB 1399 Relating to Department of Transportation Aubuchon
Department of Transportation: Revises provisions relating to power of authorities to borrow money, transportation concurrency backlog projects, use of HOV facilities by low-emission & energy-efficient vehicles, persons with outstanding toll violations, DUI offenses, commercial motor vehicles engaged in intrastate commerce, State Arbitration Board, cost of relocation of a utility, electronic toll collection systems, toll revenue, Florida Enterprise, establishing & collecting tolls, adopted work program, Florida Transportation Plan, outdoor advertising & logo sign program; provides for operations of certain trust funds, transportation concurrency backlog trust funds, ad valorem tax increment funding, department training programs, claims relating to maintenance contracts, new technologies & processes, expenses for advertising, marketing, & promotional items, & fee for furnishing replacement sign permit tag. Effective Date: upon becoming a law
3/3/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
Compare

[HB 0387](#) Relating to Use of High-Occupancy-Vehicle Lanes
1/29/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

[SB 1102](#) Relating to High-occupancy-vehicle (HOV) Lanes
2/7/2008 SENATE Referred to Transportation; Environmental Preservation and Conservation; Transportation and Economic Development Appropriations

[HB 1329](#) Relating to Infrastructure
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

[SB 1688](#) Relating to Transportation
2/27/2008 SENATE Referred to Transportation; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

[SB 1978](#) Relating to Department of Transportation
3/6/2008 SENATE On Committee agenda - Transportation, 03/11/08, 9:00 am, 37 S

[SB 1992](#) Relating to Department of Highway Safety and Motor Vehicles
3/6/2008 SENATE On Committee agenda - Transportation, 03/11/08, 9:00 am, 37 S

[SB 2096](#) Relating to Department of Transportation
3/7/2008 SENATE Referred to Transportation; Community Affairs; Transportation and Economic Development Appropriations

SB 1400 Relating to Public Records and Meetings Lawson Jr.
Public Records and Meetings [RPCC]; Expresses the legislative intent to create an exemption from public records and public meetings requirements. EFFECTIVE DATE: Upon becoming law.
1/25/2008 SENATE Filed
2/21/2008 SENATE Referred to Governmental Operations; Rules

SB 1402 Relating to Public Records and Meetings Lawson Jr.
Public Records and Meetings [RPCC]; Expresses the legislative intent to create an exemption from public records and public meetings requirements. EFFECTIVE DATE: Upon becoming law.
1/25/2008 SENATE Filed
2/21/2008 SENATE Referred to Governmental Operations; Rules

HB 1413 Relating to Energy Efficiency Garcia (R)
Energy Efficiency: Creates Energy Policy Governance Task Force; directs Florida Building Commission to convene workgroup to develop model residential energy efficiency ordinance; requires all county, municipal, & public community college buildings to meet certain energy efficiency standards for construction; establishes schedule for required purchase of biodiesel fuel for use by state-owned diesel vehicles & equipment; establishes

schedule for required purchase of ethanol for use by state-owned flex-fuel vehicles; requires administration, enforcement, & annual reporting by DMS; requires percentage of total diesel fuel purchases by school district transportation services to be biodiesel fuel purchases; provides applicability to certain contracts; provides for refunds on fuel used for transportation of products used to produce renewable energy source. Effective Date: July 1, 2008

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

Compare

[SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0562](#) Relating to Educational Facilities/Building Standards

SENATE Referred to Environmental Preservation and Conservation; Education
12/13/2007 Pre-K - 12; Education Facilities Appropriations

Identical

[SB 2850](#) Relating to Energy Efficiency

3/4/2008 SENATE Filed

HB 1415 Relating to West-Central Florida Water Restoration Action Plan Grant

West-Central Florida Water Restoration Action Plan: Requires Southwest Florida Water Management District to implement West-Central Florida Water Restoration Action Plan; specifies plan criteria, requirements, & initiatives; requires district to coordinate with regional water supply authorities & governmental partners; requires district to submit specified report. Effective Date: July 1, 2008

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

Similar

[SB 2580](#) Relating to West-Central Florida Water Restoration
Action Plan

2/29/2008 SENATE Filed

HB 1421 Relating to Southwest Florida Regional Planning Council Grant

Southwest Florida Regional Planning Council: Directs Southwest Florida Regional Planning Council to establish pilot project to expand current capabilities of council to better identify & resolve potential conflicts in overlapping jurisdictions within region; directs council to provide administrative oversight & hire contract employees; specifies scope of project; provides for termination of project; requires council to submit report; provides appropriations. Effective Date: July 1, 2008

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

HB 1427 Relating to Beach Management Mayfield

Beach Management: Provides requirements for quality & quantity of dredged sand placed on certain beaches; requires estimation of requisite quantity of beach-quality sand by DEP; applies requirements for dredging; provides requirements for certain inlet management projects & activities; requires DEP to establish funding priorities for certain inlet management projects & activities; require Legislature to make certain designations; requires DEP to submit report. Effective Date: July 1, 2008

3/3/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Referred to Environment & Natural Resources Council

3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H

Identical

[SB 1672](#) Relating to Beach Management

- SB 1432 Relating to Renewable Energy Generation and Net Metering** Justice
Renewable Energy Generation and Net Metering [RPCC]; Provides for the promotion of the development of small customer-owned renewable energy generation, particularly through photovoltaic and wind systems. Diversifies the types of fuel used to generate electricity, minimizes the volatility of fuel costs, encourages investment in the state, improves environmental conditions, and, at the same time, minimizes costs of power supply to electric utilities and their customers, etc. EFFECTIVE DATE: 07/01/2008.
1/28/2008 SENATE Filed
2/21/2008 SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations

Compare

[SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[HB 0457](#) Relating to Renewable Energy Technologies and Energy Efficiency
1/30/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/01/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

[SB 1178](#) Relating to Renewable Energy Technologies & Energy Efficiency
SENATE Referred to Environmental Preservation and Conservation;
2/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

[SB 1382](#) Relating to Net Metering
SENATE Referred to Communications and Public Utilities; Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations

Identical

[HB 0557](#) Relating to Interconnection of Customer-owned Renewable Energy Generation and Net Metering
1/25/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

- SB 1444 Relating to Fla. Forever Water Management District Work Plan** Saunders (B)
Fla. Forever Water Management District Work Plan [RPCC]; Eliminates an obsolete requirement for an initial 5-year work plan from each water management district pertaining to the Florida Forever Water Management District Work Plan, etc. EFFECTIVE DATE: Upon becoming law.
1/29/2008 SENATE Filed
2/21/2008 SENATE Referred to Environmental Preservation and Conservation; General Government Appropriations; Rules

- HB 1459 Relating to Discretionary Surtax on Documents** Lopez-Cantera
Discretionary Surtax on Documents: Repeals provisions of law providing for use of discretionary surtax on documents & creation of Housing Assistance Loan Trust Fund to provide housing assistance for low-income & moderate-income families in each county as defined in s. 125.011(1), F.S. Effective Date: upon becoming a law
3/4/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

Similar

[SB 1492](#) Relating to Discretionary Surtax on Documents
2/21/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government Appropriations

- HB 1471 Relating to Affordable Housing for Veterans** Bucher
Affordable Housing for Veterans: Increases amount of documentary tax distributed to State

Housing Trust Fund; provides that increased amount is to be used to fund loans to veterans for affordable housing through Florida Homeownership Assistance Program; conforms cross-references; provides appropriation. Effective Date: July 1, 2008
3/4/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council
Identical

[SB 1020](#) Relating to Affordable Housing for Veterans
1/24/2008 SENATE Referred to Community Affairs; Military Affairs and Domestic Security; Finance and Tax; Transportation and Economic Development Appropriations

HB 1473 Relating to Procurement of Contractual Services by a State Agency Bean

Procurement of Contractual Services by a State Agency: Provides that contracts to outsource human services related to mental health, substance abuse, or child welfare are not subject to competitive solicitation requirements; defines "material adverse financial impact"; provides requirements with respect to outsourced human services contracts related to mental health, substance abuse, or child welfare; requires contracting agency to negotiate contract amendment with human services provider if material change to scope of contract is imposed upon service provider & compliance with such change will have material adverse financial impact on service provider. Effective Date: July 1, 2008
3/4/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council

HB 1477 Relating to County Lease Arrangements Evers

County Lease Arrangements: Provides exemption from term limitation for leases entered into by county with another governmental entity. Effective Date: July 1, 2008
3/4/2008 HOUSE Filed
3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council

Similar

[SB 1502](#) Relating to Leased Property for Public Purposes
2/21/2008 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; General Government Appropriations

SB 1482 Relating to Onsite Sewage Treatment and Disposal Systems Geller

Onsite Sewage Treatment and Disposal Systems [SPCC]; Provides legislative intent to research and find cost-effective methods for reducing nitrogen levels in the state's springs and to expand research in the Wekiva Springs Basin. Requires the Department of Health to conduct a study, or contract with the Stormwater Management Academy of the University of Central Florida, to develop and evaluate passive onsite wastewater nitrogen reduction systems, etc. APPROPRIATION: \$5,000,000. EFFECTIVE DATE: 07/01/2008.
1/31/2008 SENATE Filed
2/21/2008 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; Health and Human Services Appropriations; General Government Appropriations

Compare

[HB 0975](#) Relating to Onsite Sewage Treatment and Disposal Systems
3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

SB 1490 Relating to Property Tax Exemption/Affordable Housing Bennett

Property Tax Exemptions/Affordable Housing [RPCC]; Provides additional criteria for determining whether property owned by an exempt organization qualified as charitable under the Internal Revenue Code is entitled to charitable affordable housing property tax exemptions. Provides that property is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families, etc. EFFECTIVE DATE: Upon becoming law.
2/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/08/08, 9:00 a.m., 301 C (No Votes Will Be Taken)
2/13/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact

Conference; 02/15/08, 9:00 a.m., 117 K (No Votes Will Be Taken)
2/21/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government
Appropriations

Identical

[HB 0735](#) Relating to Affordable Housing Property Tax Exemptions
3/6/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency &
Accountability Council

HB 1491 Relating to Transportation Projects

Murzin

Transportation Projects: Revises provisions authorizing DOT to enter into agreement with another governmental entity to complete project or project phase that is not in department's adopted work program; specifies that agreement may be long term; removes certain limitations & requirements. Effective Date: July 1, 2008

3/4/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

Identical

[SB 2402](#) Relating to Transportation Projects
2/28/2008 SENATE Filed

SB 1492 Relating to Discretionary Surtax on Documents

Margolis

Discretionary Surtax on Documents [RPCC]; Nullifies the repeal of the surtax in 2011, related to the Housing Assistance Loan Trust Fund in Miami-Dade County, etc. EFFECTIVE DATE: Upon becoming law.

2/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/08/08, 9:00 a.m., 301 C (No Votes Will Be Taken)

2/13/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 02/15/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

2/21/2008 SENATE Referred to Community Affairs; Finance and Tax; General Government Appropriations

Similar

[HB 1459](#) Relating to Discretionary Surtax on Documents
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 1502 Relating to Leased Property for Public Purposes

Margolis

Leased Property for Public Purposes [RPCC]; Provides an exemption from a 30-year lease limitation when counties enter into a lease with the state, another governmental entity, or when authorized under the provisions governing the powers and duties of county governments, etc. EFFECTIVE DATE: 07/01/2008.

2/1/2008 SENATE Filed

2/21/2008 SENATE Referred to Community Affairs; Governmental Operations; Finance and Tax; General Government Appropriations

Similar

[HB 1477](#) Relating to County Lease Arrangements
3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council

HB 1503 Relating to Management of Wastewater

Aubuchon

Management of Wastewater: Requires DEP to identify sewage contaminant sources when certain health advisories for beach waters are issued; requires DEP to notify certain counties & municipalities of wastewater facilities in violation of pollution control laws. Effective Date: July 1, 2008

3/4/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

Identical

[SB 1634](#) Relating to Wastewater Management
2/27/2008 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; General Government Appropriations

HB 1505 Relating to Workforce Development

Aubuchon

Workforce Development: Creates Florida Business & Workforce Competitiveness Program in AWI; requires funds allocated to program be used by regional workforce boards to award competitive grants to foster economic development by helping workers acquire new skills or upgrade existing skills; requires Workforce Florida, Inc., to allocate funds from Florida Business & Workforce Competitiveness Trust Fund to each regional workforce board its share of available funds to use for awarding grants to eligible employers; provides that trust fund is funded by quarterly employment & training investment assessment imposed on certain employers; provides that unemployment compensation rate will be reduced by amount to be assessed for investment assessment; requires Workforce Florida, Inc., to establish guidelines for administration of program & criteria for fund application evaluations; revises unemployment compensation contribution rate provisions to accommodate requirements for funding program. Effective Date: upon becoming a law, if HB 1507 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law

3/4/2008 HOUSE Filed

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Compare

[SB 2496](#) Relating to Fla. Business & Workforce Competitiveness
TF/AWI
2/28/2008 SENATE Filed

Similar

[SB 2436](#) Relating to Workforce Development
2/28/2008 SENATE Filed

Linked

[HB 1507](#) Relating to Trust Funds/Florida Business and Workforce
Competitiveness Trust Fund/AWI
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic
Expansion & Infrastructure Council

SB 1510 Relating to Public Meetings and Records/Pending Litigation

Geller

Public Meetings and Records/Pending Litigation [RPCC]; Clarifies that the term "pending litigation," with respect to an exemption allowing officers of a governmental entity to meet with an attorney, includes any matter that is the subject of the mandatory 6-month notice of intent to initiate a tort action lawsuit provided to a governmental entity and for which a lawsuit has not yet been filed, etc. EFFECTIVE DATE: 07/01/2008.

2/4/2008 SENATE Filed

2/21/2008 SENATE Referred to Governmental Operations; Community Affairs; Judiciary

SB 1512 Relating to Transportation and Transit Authorities

Geller

Transportation and Transit Authorities [EPCC]; Revises the definition of "agency" to exclude any transportation or transit authorities from the provisions of the Administrative Procedure Act. Requires 80 percent of the proceeds from the rental car surcharge collected in each county served by the South Florida Regional Transportation Authority to be deposited in an account held by the authority, etc. EFFECTIVE DATE: 07/01/2008.

2/5/2008 SENATE Filed

2/13/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact
Conference; 02/15/08, 9:00 a.m., 117 K (No Votes Will Be Taken)2/21/2008 SENATE Referred to Transportation; Community Affairs; Governmental Operations;
Finance and Tax; Transportation and Economic Development Appropriations**Compare**

[HB 1245](#) Relating to Regional Transportation Authorities
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion &
Infrastructure Council

HB 1513 Relating to Low-income and Moderate-income Homeowners

Braynon

Low-income and Moderate-income Homeowners: Provides for counties to establish fund for providing no-interest loans to assist low-income & moderate-income homeowners in paying

homeowners' insurance premiums; authorizes county governing authority to levy surtaxes on building-related permits to finance assistance fund; limits amount family may receive from fund in any year; requires that loan be repaid if homestead is sold or refinanced; requires proceeds from refinancing or selling homestead to be deposited back into fund; provides requirements for ordinance levying surtax & creating fund; specifies amount of surtaxes; provides limitations on use of fund; provides for program to be adopted initially by governing authority of specified constitutional charter counties & for later adoption in remaining counties of state. Effective Date: July 1, 2008

3/6/2008 HOUSE Filed

Identical

[SB 1358](#) Relating to Low and Moderate Income Insurance Assistance Fund

SENATE Referred to Community Affairs; Banking and Insurance; Finance and 2/21/2008 Tax; General Government Appropriations; Transportation and Economic Development Appropriations

HB 1519 Relating to Fuel-efficient Vehicles

Sasso

Fuel-efficient Vehicles: Requires state agencies, state universities, & certain local governments to purchase hybrid, flex-fuel, or biodiesel vehicles if such vehicles are available; requires DMS to adopt rules establishing criteria for purchase of such vehicles; exempts sale or lease of gasoline-electric hybrid vehicles & vehicles powered by other alternative fuels from sales & use tax; provides mileage requirements for such vehicles; limits amount of exemption; provides for future expiration of exemption. Effective Date: July 1, 2008

3/7/2008 HOUSE Filed

Compare

[SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation; 11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0316](#) Relating to Energy Use

3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation; 12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0420](#) Relating to State Purchasing/Hybrid Vehicles

SENATE Referred to Environmental Preservation and Conservation; 12/13/2007 Community Affairs; Governmental Operations; General Government Appropriations

[SB 2160](#) Relating to Tax Exemption/Hybrid Vehicles/Alternative Fuels

SENATE Referred to Environmental Preservation and Conservation; 3/7/2008 Communications and Public Utilities; Finance and Tax; General Government Appropriations

SB 1528 Relating to Community Redevelopment Agencies/Dissolution Storms

Community Redevelopment Agencies/Dissolution [RPCC]; Provides for the dissolution of community redevelopment agencies within 15 years after creation, except that such agencies that were created before July 1, 2008, and that have been in existence longer than 15 years must be dissolved by July 1, 2009, etc. EFFECTIVE DATE: 07/01/2008.

2/5/2008 SENATE Filed

2/21/2008 SENATE Referred to Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

SB 1544 Relating to Energy

Saunders (B)

Energy [RPCC]; Provides for the Florida Energy Office to be located within the Department of Environmental Protection (DEP). Authorizes the DEP to coordinate the development, review, and implementation of the state's energy policy, etc. EFFECTIVE DATE: 07/01/2008.

3/5/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/06/08, 3:15 pm, 401 S - Workshop for PCS Amendment 099258, No vote will be taken
3/6/2008 SENATE PCS (099258) Workshopped by Environmental Preservation and Conservation
3/10/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/13/08, 9:00 am, 401 S

SB 1552 Relating to Everglades Restoration Bonds Saunders (B)
Everglades Restoration Bonds [RPCC]; Extends the period during which Everglades restoration bonds may be issued to fiscal year 2019-2020 and increases the amount of such bonds that may be issued each fiscal year to \$200 million, etc. EFFECTIVE DATE: 07/01/2008.
2/5/2008 SENATE Filed
2/21/2008 SENATE Referred to Environmental Preservation and Conservation; Finance and Tax; General Government Appropriations
3/10/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/13/08, 9:00 am, 401 S

Identical

[HB 1135](#) Relating to Everglades Restoration Bonds
3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

SB 1578 Relating to Property Rights Baker
Property Rights [RPCC]; Provides that a moratorium on development that is in effect for longer than 1 year is not a temporary impact to real property and is included in the terms "inordinate burden" and "inordinately burdened." Shortens the notice period to 120 days for a property owner to file a certain action under the Bert J. Harris, Jr., Private Property Rights Protection Act, etc. EFFECTIVE DATE: 07/01/2008.
2/6/2008 SENATE Filed
2/21/2008 SENATE Referred to Community Affairs; Judiciary; Transportation and Economic Development Appropriations

Identical

[HB 0881](#) Relating to Property Rights
2/21/2008 HOUSE Referred to Committee on Constitution & Civil Law by Safety & Security Council

SB 1624 Relating to Public Procurement Deutch
Public Procurement [LPCC]; Prohibits transactions between state agencies and companies included on either the "Scrutinized Companies with Activities in Sudan List" or the "Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List," as determined by the State Board of Administration, etc. EFFECTIVE DATE: Upon becoming law.
2/7/2008 SENATE Filed
2/27/2008 SENATE Referred to Military Affairs and Domestic Security; Governmental Operations; General Government Appropriations

SB 1626 Relating to Charter County Transit System Surtax Alexander
Charter County Transit System Surtax[EPCC]; Renames the Charter County Transit System Surtax as the Charter County Transportation System Surtax. Expands the eligibility to levy the surtax to all charter counties, etc. EFFECTIVE DATE: 07/01/2008.
2/7/2008 SENATE Filed
2/27/2008 SENATE Referred to Transportation; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations; Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 2/29/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

Identical

[HB 0747](#) Relating to Charter County Transit System Surtax
3/10/2008 HOUSE On Committee agenda - Urban & Local Affairs, 03/12/08, 9:00 am, 306 H

SB 1634 Relating to Wastewater Management Bennett

Wastewater Management [SPCC]; Provides that when a health advisory that prohibits swimming in beach waters is issued on the basis of the results of the bacteriological sampling of waters or when departmental rules or another law requires issuance of a health advisory that prohibits swimming in beach waters on the basis of such results, the Wastewater Compliance Evaluation Section of the DEP shall identify the source of the sewage contaminants, etc. EFFECTIVE DATE: 07/01/2008.

2/7/2008 SENATE Filed

2/27/2008 SENATE Referred to Health Regulation; Environmental Preservation and Conservation; General Government Appropriations

Identical

[HB 1503](#) Relating to Management of Wastewater

3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

SB 1644 Relating to Transportation

King, Jr.

Transportation[EPCC]; Prescribes when certain funds will become subject to appropriation. Revises the distribution of license tax moneys deposited in the State Transportation Trust Fund for the funding of the Florida Seaport Transportation and Economic Development Program and certain seaport intermodal access projects, etc. Effective Date: 07/01/2008

2/7/2008 SENATE Filed

2/27/2008 SENATE Referred to Transportation; Governmental Operations; Finance and Tax; Transportation and Economic Development Appropriations

Similar

[HB 1289](#) Relating to Seaport Development

3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

SB 1654 Relating to Governmental Effectiveness and Efficiency

Lawson Jr.

Governmental Effectiveness and Efficiency[RPCC]; Expresses the legislative intent to improving governmental effectiveness and efficiency. EFFECTIVE DATE: Upon becoming law.

2/7/2008 SENATE Filed

2/27/2008 SENATE Referred to Governmental Operations; General Government Appropriations; Rules

SB 1656 Relating to Governmental Effectiveness and Efficiency

Lawson Jr.

Governmental Effectiveness and Efficiency[RPCC]; Expresses the legislative intent to improving governmental effectiveness and efficiency. EFFECTIVE DATE: Upon becoming law.

2/7/2008 SENATE Filed

2/27/2008 SENATE Referred to Governmental Operations; General Government Appropriations; Rules

SB 1666 Relating to Commuter Rail Service

Baker

Commuter Rail Service[EPCC]; Authorizes the Department of Transportation (DOT) to purchase and provide liability insurance in relation to rail corridors and to indemnify and hold harmless a railroad company when the DOT acquires a rail corridor from the company. Extends these provisions to other governmental entities providing commuter rail service and constructing, operating, maintaining, or managing a rail corridor on any publicly owned right-of-way, etc. EFFECTIVE DATE: 07/01/2008.

2/8/2008 SENATE Filed

2/27/2008 SENATE Referred to Transportation; Governmental Operations; Judiciary; Transportation and Economic Development Appropriations

SB 1672 Relating to Beach Management

Jones

Beach Management [RPCC]; Provides requirements concerning the quality and quantity of dredged sand placed on certain beaches adjacent to inlets. Requires an estimation of the requisite quantity of beach-quality sand by the Department of Environmental Protection and its consultants. Requires the protection of shorebirds and marine turtles, etc. EFFECTIVE DATE: 07/01/2008.

2/8/2008 SENATE Filed

2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations

3/10/2008 SENATE On Committee agenda - Environmental Preservation and Conservation, 03/13/08, 9:00 am, 401 S

Identical

[HB 1427](#) Relating to Beach Management

3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H

SB 1688 Relating to Transportation

Baker

Transportation [EPCC]; Creates the Florida Transportation Revenue Study Commission to study state, regional, and local transportation needs and develop recommendations for funding sources to address those needs. Authorizes the transportation concurrency backlog authority to borrow money, including, but not limited to, issuing debt obligations, such as bonds, notes, certificates, and similar debt instruments, etc. APPROPRIATION: \$200,000. EFFECTIVE DATE: Upon becoming law.

2/11/2008 SENATE Filed

2/27/2008 SENATE Referred to Transportation; Community Affairs; Finance and Tax; Transportation and Economic Development Appropriations

Compare

[HB 1329](#) Relating to Infrastructure

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

[HB 1399](#) Relating to Department of Transportation

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 1702 Relating to Department of Agriculture and Consumer Services Alexander

Department of Agriculture and Consumer Services[RPCC]; Expresses the legislative intent to revise laws relating to the Department of Agriculture and Consumer Services. EFFECTIVE DATE: Upon becoming law.

2/11/2008 SENATE Filed

2/27/2008 SENATE Referred to Agriculture; General Government Appropriations; Rules

SB 1706 Relating to Developments of Regional Impact

Margolis

Developments of Regional Impact[RPCC]; Exempts any development within a county having a population greater than 1.5 million which is proposed for at least two uses, one of which is for use as an office or laboratory appropriate for the research and development of medical technology, biotechnology, or life sciences from review as a development of regional impact if such development meets certain criteria, etc. EFFECTIVE DATE: 07/01/2008.

2/12/2008 SENATE Filed

2/27/2008 SENATE Referred to Community Affairs; Commerce; Transportation; Higher Education

Identical

[HB 0911](#) Relating to Developments of Regional Impact

2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 1710 Relating to Soil & Water Conservation/Watershed Improvement Rich

Soil & Water Conservation/Watershed Improvement[RPCC]; Revises eligibility requirements to vote in a referendum on the creation or discontinuance of a soil and water conservation district or on the creation of a watershed improvement district, etc. EFFECTIVE DATE: 07/01/2008.

2/12/2008 SENATE Filed

2/27/2008 SENATE Referred to Agriculture; Environmental Preservation and Conservation; Community Affairs

Identical

[HB 0865](#) Relating to Soil and Water Conservation Districts and Watershed Improvement Districts

3/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council

- SB 1760 Relating to Implementing 2008-2009 General Appropriations Act** Wise
 Implementing 2008-2009 General Appropriations Act[FPCC]; Expresses the legislative intent to revise laws relating to implementing the 2008-2009 General Appropriations Act.
 EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Education Pre-K - 12 Appropriations
- SB 1776 Relating to Implementing 2008-2009 General Appropriations Act** Lynn
 Implementing 2008-2009 General Appropriations Act[FPCC]; Expresses the legislative intent to revise laws relating to implementing the 2008-2009 General Appropriations Act.
 EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Higher Education Appropriations
- SB 1802 Relating to Implementing 2008-2009 General Appropriations Act** Crist
 Implementing 2008-2009 General Appropriations Act[FPCC]; Expresses the legislative intent to revise laws relating to implementing the 2008-2009 General Appropriations Act.
 EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Criminal and Civil Justice Appropriations
- SB 1810 Relating to Agriculture** Alexander
 Agriculture[FPCC]; Expresses the legislative intent to revise laws relating to agriculture.
 EFFECTIVE DATE: 07/01/2008.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1812 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: 07/01/2008.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1814 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: 07/01/2008.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1816 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: 07/01/2008.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1820 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1822 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1824 Relating to Governmental Operations** Alexander
 Governmental Operations[FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed

2/27/2008 SENATE Referred to General Government Appropriations

- SB 1826 Relating to Regulation** Alexander
Regulation [FPCC]; Expresses the legislative intent to revise laws relating to regulation.
EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1828 Relating to Governmental Operations** Alexander
Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1830 Relating to Department of Management Services** Alexander
Department of Management Services [FPCC]; Expresses the legislative intent to revise laws relating to the Department of Management Services. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1832 Relating to Governmental Operations** Alexander
Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1840 Relating to Governmental Operations** Alexander
Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1844 Relating to Implementing 2008-2009 General Appropriations Act** Alexander
Implementing 2008-2009 General Appropriations Act [FPCC]; Expresses the legislative intent to revise laws relating to implementing the 2008-2009 General Appropriations Act. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations
- SB 1846 Relating to Water Management Districts** Alexander
Water Management Districts [FPCC]; Expresses the legislative intent to revise laws relating to the water management districts. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations; Environmental Preservation and Conservation; Rules
- SB 1848 Relating to Water Management Districts** Alexander
Water Management Districts [FPCC]; Expresses the legislative intent to propose an amendment to Section 9 of Article VII of the State Constitution, relating to the water management districts.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations; Environmental Preservation and Conservation; Rules
- SB 1850 Relating to Trust Funds** Alexander
Trust Funds [FPCC]; Expresses the legislative intent to revise laws relating to trust funds. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed
2/27/2008 SENATE Referred to General Government Appropriations

- SB 1868 Relating to Implementing 2008-2009 General Appropriations Act** Peaden, Jr.
 Implementing 2008-2009 General Appropriations Act [FPCC]; Expresses the legislative intent to revise laws relating to implementing the 2008-2009 General Appropriations Act. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Health and Human Services Appropriations
- SB 1870 Relating to Economic Development** Fasano
 Economic Development [FPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1872 Relating to Economic Development** Fasano
 Economic Development [FPCC]; Expresses the legislative intent to revise laws relating to economic development. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1874 Relating to Transportation** Fasano
 Transportation [FPCC]; Expresses the legislative intent to revise laws relating to transportation. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1876 Relating to Transportation** Fasano
 Transportation [FPCC]; Expresses the legislative intent to revise laws relating to transportation. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1878 Relating to Governmental Operations** Fasano
 Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1880 Relating to Governmental Operations** Fasano
 Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to Transportation and Economic Development Appropriations
- SB 1892 Relating to Governmental Operations** Carlton
 Governmental Operations [FPCC]; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
 2/27/2008 SENATE Referred to General Government Appropriations
- SB 1894 Relating to Governmental Operations** Carlton
 Governmental Operations; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
- SB 1896 Relating to Governmental Operations** Carlton
 Governmental Operations; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
 2/12/2008 SENATE Filed
- SB 1898 Relating to Governmental Operations** Carlton
 Governmental Operations; Expresses the legislative intent to revise laws relating to

governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed

SB 1900 Relating to Governmental Operations Carlton
Governmental Operations; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed

SB 1902 Relating to Governmental Operations Carlton
Governmental Operations; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: Upon becoming law.
2/12/2008 SENATE Filed

SB 1904 Relating to Governmental Operations Carlton
Governmental Operations; Expresses the legislative intent to revise laws relating to governmental operations. EFFECTIVE DATE: 07/01/2008.
2/12/2008 SENATE Filed

SB 1928 Relating to Trust Funds Gaetz
Trust Funds [SPCC]; Expresses the legislative intent to revise laws relating to trust funds. EFFECTIVE DATE: Upon becoming law.
2/13/2008 SENATE Filed
2/27/2008 SENATE Referred to Education Pre-K - 12; Education Pre-K - 12 Appropriations; Rules

SB 1946 Relating to Transportation of Agricultural Products Baker
Transportation of Agricultural Products [EPCC]; Revises provisions relating to the movement of certain trucks, tractors, and other vehicles used in the production or transportation of agricultural products on certain roads in this state, etc. EFFECTIVE DATE: 07/01/2008.
2/13/2008 SENATE Filed
2/27/2008 SENATE Referred to Transportation; Agriculture; Transportation and Economic Development Appropriations

Similar

[HB 1255](#) Relating to Motor Vehicles
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

SB 1974 Relating to State Parks/Military Personnel & Families Diaz de la Portilla
State Parks/Military Personnel & Families [RPCC]; Provides free admission to state parks for all active-duty military personnel or the spouse or minor children on the Memorial holiday, and for all visitors on the Veterans Day holiday in honor of those serving or having served in the United States Armed Forces. Encourages the Division of Recreation and Parks to hold special events and take other actions appropriate to show the appreciation for those who have served our country in the Armed Forces, etc. EFFECTIVE DATE: 07/01/2008.
2/13/2008 SENATE Filed
2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Military Affairs and Domestic Security; Finance and Tax; General Government Appropriations

Compare

[HB 0289](#) Relating to State Parks
1/23/2008 HOUSE Favorable with 1 Amendment by Conservation & State Lands; 7 Yeas, 0 Nays; Now in Environment & Natural Resources Council

SB 1978 Relating to Department of Transportation Baker
Department of Transportation [EPCC]; Provides for maintenance contracts to be included in the types of claims settled by the State Arbitration Board. Provides for the department or a local governmental entity to pay the costs of removing or relocating a utility that is interfering with the use of a road or rail corridor, etc. EFFECTIVE DATE: 07/01/2008.
2/13/2008 SENATE Filed
2/27/2008 SENATE Referred to Transportation; Finance and Tax; Transportation and Economic Development Appropriations

3/6/2008 SENATE On Committee agenda - Transportation, 03/11/08, 9:00 am, 37 S

Compare

[HB 1399](#) Relating to Department of Transportation

3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 1982 Relating to Cleanup of Contaminated Petroleum Sites

Baker

leanup of Contaminated Petroleum Sites [RPCC]; Increases public funding for the restoration of certain sites contaminated by petroleum. Provides requirements concerning preapproved site rehabilitation agreements that govern submittal of invoices to the Department of Environmental Protection and payment of subcontractors, etc. EFFECTIVE DATE: 07/01/2008.

2/14/2008 SENATE Filed

2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Governmental Operations; Finance and Tax; General Government Appropriations

Similar

[HB 0961](#) Relating to Cleanup of Sites Contaminated by Petroleum

3/7/2008 HOUSE Referred to Committee on Environmental Protection by Environment & Natural Resources Council

SB 2008 Relating to Information Technology

Governmental Operations

Information Technology [RPCC]; Revises the duties of the Legislative Budget Commission with respect to its review of information technology policies and plans. Creates the Office of Open Government within the Executive Office of the Governor. Requires that the Technology Review Workgroup review information technology projects as directed in the General Appropriations Act, etc. EFFECTIVE DATE: 07/01/2008.

2/14/2008 SENATE Filed (formerly PCB 7034)

2/27/2008 SENATE Referred to Governmental Operations; General Government Appropriations

SB 2014 Relating to Affordable Senior Housing

Deutch

Affordable Senior Housing [RPCC]; Authorizes local governments to include affordable senior housing element in comprehensive plans; specifies element requirements. EFFECTIVE DATE: 07/01/2008.

2/15/2008 SENATE Filed

2/27/2008 SENATE Referred to Community Affairs; Transportation and Economic Development Appropriations

Identical

[HB 0561](#) Relating to Affordable Senior Housing

1/29/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 2018 Relating to Abandoned Petroleum Storage/Financial Assistance

Posey

Abandoned Petroleum Storage/Financial Assistance [RPCC]; Clarifies a provision in the abandoned petroleum storage system program that allows certain innocent victims to be eligible for cleanup assistance. Provides that if the qualifying property passes to a surviving spouse or is transferred into a revocable trust, the property remains eligible for the cleanup program, etc. EFFECTIVE DATE: 07/01/2008.

2/15/2008 SENATE Filed

2/27/2008 SENATE Referred to Environmental Preservation and Conservation; Judiciary; General Government Appropriations

Identical

[SB 0666](#) Relating to Abandoned Petroleum Storage/Financial Assistance

HOUSE SENATE Withdrawn from Environmental Preservation and Conservation; Judiciary; General Government Appropriations; Withdrawn prior to introduction

[HB 1091](#) Relating to Financial Assistance for Contaminated Petroleum Storage Sites

3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H

- SB 2050 Relating to Impact Fees** Bennett
 Impact Fees [RPCC]; Requires that notice be provided no less than 90 days before the effective date of a county or municipal ordinance or a special district resolution imposing a new or increased impact fee. Provides that the notice is not required if an impact fee is decreased or eliminated, etc. EFFECTIVE DATE: 07/01/2008.
 2/19/2008 SENATE Filed
 3/7/2008 SENATE Referred to Community Affairs; Finance and Tax
- Compare**
-
- [HB 1093](#) Relating to Impact Fees
 3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- Similar**
-
- [SB 0662](#) Relating to Impact Fees
 2/7/2008 SENATE Withdrawn from Community Affairs; Finance and Tax; Withdrawn prior to introduction
- SB 2060 Relating to Agriculture** Dean
 Agriculture [RPCC]; Prohibits county government imposition of a tax, assessment, or fee for stormwater management on agricultural land meeting certain requirements. Provides indemnity for an agricultural landowner for an easement or any other right secured by a water management district for access to lands the district provides or makes available to the public, etc. EFFECTIVE DATE: 07/01/2008.
 2/19/2008 SENATE Filed
 3/7/2008 SENATE Referred to Agriculture; Community Affairs; Judiciary; General Government Appropriations
- Similar**
-
- [HB 0761](#) Relating to Agriculture
 2/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council
- SB 2078 Relating to Florida Springs Stewardship Act** Oelrich
 Florida Springs Stewardship Act [RPCC]; Establishes the Florida Springs Stewardship Task Force. Provides for duties of the task force, such as collecting and inventorying all existing data identifying zones of influence for each of Florida's 33 known first magnitude springs and identifying land uses in these areas. Directs all state agencies, and requests all other agencies and local governments, to render assistance to and cooperate with the task force, etc. EFFECTIVE DATE: 07/01/2008.
 2/20/2008 SENATE Filed
 3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations
- Identical**
-
- [HB 0031](#) Relating to Springs Protection
 10/16/2007 HOUSE Referred to Committee on Conservation & State Lands by Environment & Natural Resources Council
- SB 2088 Relating to Water Supply** Justice
 Water Supply [RPCC]; Creates part VII of ch. 373, F.S., relating to water supply policy, planning, production, and funding, etc. EFFECTIVE DATE: 07/01/2008.
 2/20/2008 SENATE Filed
 3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Governmental Operations; General Government Appropriations
- Compare**
-
- [SB 2602](#) Relating to Alternative Water Resource Projects
 2/29/2008 SENATE Filed
- SB 2096 Relating to Department of Transportation** Bullard (L)
 Department of Transportation [EPCC]; Directs the department to maintain specified training programs for employees and prospective employees. Eliminates the requirement for annual updating of the Florida Transportation Plan, etc. EFFECTIVE DATE: 07/01/2008.

2/20/2008 SENATE Filed
3/7/2008 SENATE Referred to Transportation; Community Affairs; Transportation and Economic Development Appropriations

Compare

[HB 1329](#) Relating to Infrastructure
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

[HB 1399](#) Relating to Department of Transportation
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

SB 2126 Relating to Water Protection and Sustainability Program TF/DEP Alexander
Water Protection and Sustainability Program TF/DEP [FPCC]; Re-creates the Water Protection and Sustainability Program Trust Fund within the Department of Environmental Protection without modification. Removes the scheduled review and termination of the trust fund, etc. EFFECTIVE DATE: 07/01/2009.
2/20/2008 SENATE Filed
3/7/2008 SENATE Referred to General Government Appropriations
3/10/2008 SENATE On Committee agenda - General Government Appropriations, 03/13/08, 3:00 pm, 401 S

SB 2142 Relating to Federal Grants TF/Department of Community Affairs Fasano
Federal Grants TF/Department of Community Affairs [FPCC]; Creates the Federal Grants Trust Fund within the Department of Community Affairs for use as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Provides for future review and termination or re-creation of the trust fund, etc. EFFECTIVE DATE: 07/01/2008.
2/20/2008 SENATE Filed
3/7/2008 SENATE Referred to Transportation and Economic Development Appropriations
3/10/2008 SENATE On Committee agenda - Transportation & Economic Development Appropriations, 03/13/08, 3:00 pm, 309 C

SB 2146 Relating to Trust Funds/Termination/Dept. of Community Affairs Fasano
Trust Funds/Department of Community Affairs [FPCC]; Terminates specified trust funds within the Department of Community Affairs. Provides for the disposition of balances in and revenues of such trust funds. Prescribes the procedures for the termination of such trust funds. Redesignates the Energy Consumption Trust Fund within the Department of Community Affairs as the Federal Grants Trust Fund, etc. EFFECTIVE DATE: Contingent.
2/20/2008 SENATE Filed
3/7/2008 SENATE Referred to Transportation and Economic Development Appropriations
3/10/2008 SENATE On Committee agenda - Transportation & Economic Development Appropriations, 03/13/08, 3:00 pm, 309 C

SB 2160 Relating to Tax Exemption/Hybrid Vehicles/Alternative Fuels Deutch
Tax Exemption/Hybrid Vehicles/Alternative Fuels [RPCC]; Exempts the sale or lease of gasoline-electric hybrid vehicles and vehicles powered by certain other alternative fuels from the tax on sales, rental, use, consumption, storage, or distribution imposed by state law. Requires a minimum 25-miles-per-gallon combined city and highway mileage rating for the vehicle, etc. EFFECTIVE DATE: 07/01/2008.
2/21/2008 SENATE Filed
3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations

Compare

[HB 1519](#) Relating to Fuel-efficient Vehicles
3/7/2008 HOUSE Filed

SB 2226 Relating to Water Restrictions Aronberg
Water Restrictions [RPCC]; Authorizes the governing board of a water management district or the Department of Environmental Protection (DEP) to issue an order establishing liability, requiring corrective action, or imposing an administrative penalty against a person who

violates a declaration of water shortage. Requires the governing board or the DEP to issue a notice of noncompliance before taking administrative action against a violator, etc. EFFECTIVE DATE: 07/01/2008.

2/21/2008 SENATE Filed

3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Judiciary; General Government Appropriations

SB 2230 Relating to Mangrove Protection

Aronberg

Mangrove Protection [RPCC]; Expands the penalty previously applicable to violations involving mangrove trimming or alteration to apply to any violation under the Mangrove Trimming and Preservation Act, etc. EFFECTIVE DATE: 07/01/2008.

2/21/2008 SENATE Filed

3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; General Government Appropriations

SB 2246 Relating to Land Development Regulations

Baker

Land Development Regulations [RPCC]; Provides that, notwithstanding the provisions of a comprehensive plan, the local government may not prohibit 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 to a distance equal to the longest dimension of the parcel. Provides for an owner's application to the circuit court for appropriate relief, etc. EFFECTIVE DATE: 07/01/2008.

2/22/2008 SENATE Filed

3/7/2008 SENATE Referred to Agriculture; General Government Appropriations

Similar

[HB 1173](#) Relating to Land Development Regulation

3/7/2008 HOUSE Referred to Committee on Agribusiness by Environment & Natural Resources Council

SB 2250 Relating to Renewable Energy

Baker

Renewable Energy [RPCC]; Creates the Task Force on Oil and Natural Gas Inventory. Provides a tax exemption for the sale or use of renewable fuel. Provides for transfer of the renewable energy technologies investment tax credit. Provides that the use of said credit does not reduce the alternative minimum tax credit, etc. EFFECTIVE DATE: 07/01/2008.

2/22/2008 SENATE Filed

3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Communications and Public Utilities; Finance and Tax; General Government Appropriations

Compare

[HB 0229](#) Relating to Tax Credits for Renewable Energy Technologies

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0308](#) Relating to Energy Conservation

SENATE Referred to Environmental Preservation and Conservation; 11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

[SB 0310](#) Relating to Biomass Energy Production

3/7/2008 SENATE Committee Substitute (C1) Filed

[SB 0314](#) Relating to Renewable Energy Technologies Tax Credits

3/5/2008 ----- Bill to Be Discussed During the Office of the EDR's Revenue Estimating Impact Conference; 03/07/08, 9:00 a.m., 117 K (No Votes Will Be Taken)

[SB 0412](#) Relating to Energy

SENATE Referred to Environmental Preservation and Conservation; 12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations

Similar

[HB 1165](#) Relating to Renewable Energy

3/7/2008 HOUSE Referred to Committee on Energy by Environment & Natural Resources Council

- SB 2276 Relating to Vox Populi - Voice of the People Act** Lynn
 Vox Populi - Voice of the People Act; Provides requirements with respect to decorum in meetings of the governing boards of local government authorities. Requires the governing body of a local government authority to provide specified opportunities for citizens to address issues at meetings of the governing body. Prescribes allocations of time for citizen participation, etc. EFFECTIVE DATE: 07/01/2008.
 2/25/2008 SENATE Filed
Identical
-
- [HB 0991](#) Relating to Public Meetings/Governing Boards of Local Government Authorities
 3/6/2008 HOUSE Referred to Committee on Urban & Local Affairs by Government Efficiency & Accountability Council
- SB 2292 Relating to Sovereign Immunity** Villalobos
 Sovereign Immunity; Revises procedures for recovery from the state and its agencies and political subdivisions under a tort action. Authorizes the payment of claims in excess of statutory caps from sources other than the General Revenue Fund without an act of the Legislature. Authorizes the court to order payment of excess judgment amounts. Provides for the presentation of evidence by the parties as to why unpaid excess judgment amounts should or should not be paid, etc. EFFECTIVE DATE: 07/01/2008.
 2/26/2008 SENATE Filed
- SB 2294 Relating to Working Waterfront Real Property** Dean
 Working Waterfront Real Property; Authorizes owners of working waterfront real property to convey development rights to such property to a county or municipality. Authorizes counties or municipalities to enter into agreements with owners of working waterfront real property to acquire development rights to such property for certain consideration and for certain periods. Authorizes owners to opt out of a conveyance under certain circumstances, etc. EFFECTIVE DATE: 07/01/2008.
 2/26/2008 SENATE Filed
Similar
-
- [HB 0877](#) Relating to Working Waterfront Real Property
 2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- SB 2304 Relating to Recreational Marine Industry/Economic Development** Bennett
 Recreational Marine Industry/Economic Development; Creates the Recreational Marine Business Retention Program within Enterprise Florida, Inc. Provides goals for the program, including recruiting new marine businesses, supporting existing recreational marine businesses in the state, and promoting the state's recreational marine industry through various venues. Requires Enterprise Florida, Inc., to work with the OTTED to provide additional tax incentives for the recreational marine industry, etc. EFFECTIVE DATE: 07/01/2008.
 2/26/2008 SENATE Filed
Identical
-
- [HB 1229](#) Relating to State Economic Development Incentives for the Recreational Marine Industry
 3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- SB 2310 Relating to Economic Stimulus** Ring
 Economic Stimulus; Adds economically targeted investments as an asset class of investments in which the State Board of Administration is authorized to invest. Specifies a maximum amount of available funds that the board may invest in economically targeted investments. Creates the Reusable Space Vehicle Industry Prize Program within the Office of Tourism, Trade, and Economic Development of the Executive Office of Governor, etc. EFFECTIVE DATE: 07/01/2008.
 2/26/2008 SENATE Filed
Identical
-

[HB 1295](#) Relating to Stimulating the Economy
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 2312 Relating to St. Johns River License Plate King, Jr.
St. Johns River License Plate; Creates the St. Johns River license plate. Establishes an annual use fee for the plate. Provides for the distribution of use fees received from the sale of such plates, etc. EFFECTIVE DATE: 07/01/2008.
2/26/2008 SENATE Filed
Identical

[HB 1095](#) Relating to Specialty License Plates
3/3/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

SB 2336 Relating to State Lands/Acquisition Crist
State Lands/Acquisition; Decreases the minimum estimated value of a parcel allowed before two appraisals are required. Requires the Department of Agriculture and Consumer Services to select one of the appraisers for such appraisal. Provides that a third appraisal may be obtained under certain circumstances. Requires the Department of Financial Services to select a third appraiser and a review appraiser if the estimated value of a parcel exceeds a certain amount, etc. EFFECTIVE DATE: 07/01/2008.
2/27/2008 SENATE Filed

SB 2352 Relating to Urban/Residential Environments and Water Aronberg
Urban/Residential Environments and Water; Cites this act as the "Protection of Urban and Residential Environments and Water Act." Requires adoption of the "Florida Friendly Fertilizer Use on Urban Landscapes Model Ordinance" by a specified time. Provides regulations of commercial fertilizer application on urban turf. Establishes a limited certification category for commercial fertilizer application under the Department of Agriculture and Consumer Services, etc. EFFECTIVE DATE: Upon becoming law.
2/27/2008 SENATE Filed
Identical

[HB 1267](#) Relating to Protecting Urban and Residential Environments & Water
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council

SB 2394 Relating to Protection of Springs Saunders (B)
Protection of Springs; Creates the "Florida Springs Protection Act." Provides legislative findings and intent with respect to the need to protect and restore springs and groundwater, etc. EFFECTIVE DATE: Upon becoming law.
2/28/2008 SENATE Filed

SB 2402 Relating to Transportation Projects Wise
Transportation Projects; Revises provisions authorizing the Department of Transportation (DOT) to enter into an agreement with another governmental entity to complete a project or project phase that is not in the DOT's adopted work program. Specifies that the agreement may be long term, etc. EFFECTIVE DATE: 07/01/2008.
2/28/2008 SENATE Filed
Identical

[HB 1491](#) Relating to Transportation Projects
3/10/2008 HOUSE Referred to Committee on Infrastructure by Economic Expansion & Infrastructure Council

SB 2406 Relating to Aggregate Mining Bennett
Aggregate Mining; Prohibits local governments from enacting or enforcing ordinances, resolutions, regulations, rules, policies, or other actions that prohibit mining in certain lands zoned for mining. Provides an expedited permitting process for certain limerock environmental resource permitting and reclamation applications, etc. EFFECTIVE DATE: Upon becoming law.

2/28/2008 SENATE Filed

SB 2412 Relating to Local Government Revenue Sources

Haridopolos

Local Government Revenue Sources; Requires a super majority vote for actions by a local government to levy new, increase existing, expand a base or area subject to, or eliminate an exemption from taxes, special assessments, non-ad valorem assessments, or impact fees. Requires a super majority vote of electors voting in referenda on laws taking the same actions. Provides an exception for certain emergencies, etc. EFFECTIVE DATE: 07/01/2008.

2/28/2008 SENATE Filed

Identical

[HB 0715](#) Relating to Local Government Revenue Sources

3/6/2008 HOUSE Referred to Committee on State Affairs by Government Efficiency & Accountability Council

SB 2426 Relating to Space Florida/Florida Aerospace Development

Posey

Space Florida/Florida Aerospace Development; Creates the Space and Aerospace Development Infrastructure Enhancement Fund in the Office of Tourism, Trade, and Economic Development. Provides for moneys from the funds to be distributed to successful applicants to upgrade space-related infrastructure, to enter into partnerships with applicable businesses on space-related projects, or to provide incentives for space-related ventures, etc. APPROPRIATION. EFFECTIVE DATE: Contingent.

2/28/2008 SENATE Filed

Compare

[HB 1355](#) Relating to Space Florida

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

[HB 1357](#) Relating to Trust Funds/Creation/Space & Aerospace Development Infrastructure Enhancement Fund/OTTED

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Linked

[SB 2458](#) Relating to Space & Aerospace Development Infrastructure/TF

2/28/2008 SENATE Filed

SB 2432 Relating to Local Government Early Responders

Bennett

Local Government Early Responders; Prohibits counties and municipalities from charging fees or seeking reimbursement for the use of certain early responder services, etc. EFFECTIVE DATE: 07/01/2008.

2/28/2008 SENATE Filed

SB 2436 Relating to Workforce Development

Wise

Workforce Development; Creates the Florida Business and Workforce Competitiveness Program within the Agency for Workforce Innovation. Requires Workforce Florida, Inc., to allocate funds from the Business and Workforce Competitiveness Trust Fund to regional workforce boards. Provides for an adjustment in the contribution rates for unemployment compensation of certain employers, etc. EFFECTIVE DATE: Contingent.

2/28/2008 SENATE Filed

Compare

[HB 1507](#) Relating to Trust Funds/Florida Business and Workforce Competitiveness Trust Fund/AWI

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Similar

[HB 1505](#) Relating to Workforce Development

3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Linked

[SB 2496](#) Relating to Fla. Business & Workforce Competitiveness

TF/AWI
2/28/2008 SENATE Filed

- SB 2496 Relating to Fla. Business & Workforce Competitiveness TF/AWI** Wise
Fla. Business & Workforce Competitiveness TF/AWI; Creates the Florida Business and Workforce Competitiveness Trust Fund within the Agency for Workforce Innovation. Provides for sources of funds and purposes. Provides for future review and termination or re-creation of the trust fund, etc. EFFECTIVE DATE: Contingent.
2/28/2008 SENATE Filed

Compare

[HB 1505](#) Relating to Workforce Development
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Identical

[HB 1507](#) Relating to Trust Funds/Florida Business and Workforce Competitiveness Trust Fund/AWI
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

Linked

[SB 2436](#) Relating to Workforce Development
2/28/2008 SENATE Filed

- SB 2518 Relating to Community Redevelopment Agencies** Bennett
Community Redevelopment Agencies; Revises requirements concerning reporting by community redevelopment agencies. Eliminates the requirement that such agencies file and make available to the public certain reports concerning finances. Limits expenditures made from the redevelopment trust fund for the undertakings of a community redevelopment agency to undertakings within the community redevelopment area, etc. EFFECTIVE DATE: 10/01/2008.
2/29/2008 SENATE Filed

Identical

[HB 1391](#) Relating to Community Redevelopment Agencies
3/7/2008 HOUSE Referred to Economic Expansion & Infrastructure Council; Policy & Budget Council

- SB 2562 Relating to Surplus Lands Available for Affordable Housing** Gaetz
Surplus Lands Available for Affordable Housing; Provides that a county or municipality that fails to complete and update the inventory of all real property held by the county or municipality which is appropriate for affordable housing is ineligible to receive any state funding for affordable housing. Requires that every 3 years each district school board prepare an inventory list of all real property within its jurisdiction which is not included in the 5-year district facilities work plan, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed

Similar

[HB 0905](#) Relating to Disposition of Public Property for Affordable Housing
2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

- SB 2580 Relating to West-Central Florida Water Restoration Action Plan** Alexander
West-Central Florida Water Restoration Action Plan; Provides criteria governing the implementation of the said water restoration action plan by the Southwest Florida Water Management District. Requires that the district coordinate with regional water supply authorities and governmental partners to maximize opportunities concerning the efficient expenditure of public funds. Provides criteria governing implementation of the Central West Coast Surface Water Enhancement Initiative, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed

Similar

[HB 1415](#) Relating to West-Central Florida Water Restoration Action Plan

- SB 2590 Relating to Energy Efficiency/Advanced Metering Systems** Constantine
Energy Efficiency/Advanced Metering Systems; Revises legislative intent concerning the Florida Energy Efficiency and Conservation Act. Provides that a stated goal of the act is to encourage the use of advanced metering systems, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed
- SB 2592 Relating to Affordable Housing** Gaetz
Affordable Housing; Requires that a county adopt a local land development regulation that requires certain housing to be affordable. Provides for expedited state and regional review or proposals for affordable housing developments. Requires that certain counties and municipalities amend their local comprehensive plans by a certain date to include criteria for such review, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed
- SB 2594 Relating to Brownfield Areas** Constantine
Brownfield Areas; Adds brownfield areas to the list of locations that qualify for a sales tax exemption on residential home construction costs. Provides a tax credit for the costs of solid waste removal at brownfield sites. Provides an additional tax credit for rehabilitation costs that result in the construction and operation of a health care facility or health care provider on a brownfield site. Revises the Brownfield Areas Loan Guarantee Program, etc.
EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed
Compare
[HB 0527](#) Relating to Brownfield Site Redevelopment
3/10/2008 HOUSE On Committee agenda - Environmental Protection, 03/12/08, 3:45 pm, 404 H
- SB 2596 Relating to Affordable Housing** Aronberg
Affordable Housing; Requires the scoring system for applications submitted to the State Apartment Incentive Loan Program to include specified projects in its criteria, etc.
EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed
Identical
[HB 0927](#) Relating to Affordable Housing
2/27/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council
- SB 2602 Relating to Alternative Water Resource Projects** Bennett
Alternative Water Resource Projects; Authorizes transferable rural land use credits for certain alternative water resource projects if a local government has established a rural land stewardship area. Authorizes a water management district to enter into an agreement with a private entity, a regional water supply authority, or a water utility to provide long-term consumptive use rights in exchange for contributions to alternative water resource development projects, etc. EFFECTIVE DATE: Upon becoming law.
2/29/2008 SENATE Filed
Compare
[SB 2088](#) Relating to Water Supply
3/7/2008 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Governmental Operations; General Government Appropriations
- SB 2634 Relating to Agricultural Industrial Centers** Dean
Agricultural Industrial Centers; Requires that local governments, in conjunction with certain state agencies, identify existing agricultural industrial centers before a specified deadline. Requires that local governments amend the future land use element of their local comprehensive plans for a certain purpose before a specified deadline. Provides that such amendment is exempt from the twice-a-year limitation imposed by state law, etc.
EFFECTIVE DATE: 07/01/2008.

2/29/2008 SENATE Filed

- SB 2656 Relating to Affordable Workforce Housing Program** Geller
Affordable Workforce Housing Program; Creates the Affordable Workforce Housing Program within the Division of Housing and Community Development of the Department of Community Affairs. Requires that the Secretary of Community Affairs serve as chair of the program and appoint a committee. Requires that the committee establish certain policies and procedures on or before a specified date, etc. EFFECTIVE DATE: 07/01/2008.
2/29/2008 SENATE Filed
- SB 2702 Relating to Energy-efficiency Standards** Geller
Energy-efficiency Standards; Provides that the act applies to specified types of new products sold, offered for sale, or installed in this state. Requires the Department of Environmental Protection (DEP), in consultation with the Public Service Commission, to adopt rules establishing minimum efficiency standards for specified products. Authorizes the DEP to use an accredited testing facility, etc. EFFECTIVE DATE: Upon becoming law.
2/29/2008 SENATE Filed
Compare
[HB 1383](#) Relating to Energy Efficiency
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- SB 2710 Relating to Special Districts** Aronberg
Special Districts; Authorizes special districts to purchase commodities and contractual services from purchasing agreements of other special districts, municipalities, or counties, etc. EFFECTIVE DATE: Upon becoming law.
3/3/2008 SENATE Filed
Identical
[HB 0211](#) Relating to Special Districts
2/7/2008 HOUSE Now in Government Efficiency & Accountability Council
- SB 2712 Relating to Building Florida's Future Revolving TF/OTTED** Fasano
Building Florida's Future Revolving TF/OTTED; Creates the Building Florida's Future Revolving Trust Fund within the Office of Tourism, Trade, and Economic Development to serve as a nonlapsing revolving fund for the purpose of providing loans under the Building Florida's Future Loan Program. Exempts the trust fund from future review and termination or re-creation, etc. EFFECTIVE DATE: Contingent.
3/3/2008 SENATE Filed
Linked
[SB 2714](#) Relating to Economic Development
3/3/2008 SENATE Filed
- SB 2714 Relating to Economic Development** Fasano
Economic Development; Establishes the Building Florida's Future Revolving Loan Guarantee Program within the Office of Tourism, Trade, and Economic Development. Provides for the program to provide loan guarantees or credit enhancements to units of local government or to private entities for use in constructing or modernizing facilities and infrastructure necessary to attract or expand certain industries as part of an economic-development project, etc. APPROPRIATION. EFFECTIVE DATE: Contingent.
3/3/2008 SENATE Filed
Linked
[SB 2712](#) Relating to Building Florida's Future Revolving TF/OTTED
3/3/2008 SENATE Filed
- SB 2728 Relating to Community Redevelopment/Blighted Areas** Bullard (L)
Community Redevelopment/Blighted Areas; Defines the term "blighted area" to include land previously used as a military facility, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE Filed
Identical
-

[HB 1183](#) Relating to Community Redevelopment Areas
3/3/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 2736 Relating to Enterprise Zone Jobs Tax Credit Aronberg
Enterprise Zone Jobs Tax Credit; Expands the definition of "job" for purposes of the tax credit to include the employment of an employee by two or more corporations under certain circumstances, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE Filed

Similar

[HB 1277](#) Relating to Enterprise Zone Jobs Credit Against Sales Tax
3/10/2008 HOUSE Referred to Committee on Economic Development by Economic Expansion & Infrastructure Council

SB 2764 Relating to Reclaimed Water Development Dockery
Reclaimed Water Development; Provides that reclaimed water is available to a consumptive use permit applicant. Requires a water management district to require the use of reclaimed water under certain circumstances. Provides that the use of reclaimed water is economically feasible if provided for a charge less than or equal to the charge for potable water provided by a water utility located in the permit applicant's service area, etc. EFFECTIVE DATE: Upon becoming law.
3/3/2008 SENATE Filed

SB 2768 Relating to State Investments Deutch
State Investments; Clarifies provisions relating to the retention of independent investment advisors or managers by the State Board of Administration (SBA). Provides that the executive director of the SBA is subject to confirmation by the Senate. Requires the Investment Advisory Council to submit a review and summary of recommended changes to the investment policy statement of the SBA before the SBA votes on changes to the statement, etc. EFFECTIVE DATE: 07/01/2008.
3/3/2008 SENATE Filed

Identical

[HB 1361](#) Relating to State Investments
3/7/2008 HOUSE Referred to Government Efficiency & Accountability Council; Policy & Budget Council

SB 2824 Relating to Pub. Rec./Florida Advanced Combustion Center, Inc. Posey
Pub. Rec./Florida Advanced Combustion Center, Inc.; Provides an exemption from public records requirements for materials that relate to methods of manufacture or production, potential trade secrets, potentially patentable material, actual trade secrets, business transactions, financial and proprietary information, and agreements or proposals to receive funding that are received, generated, ascertained, or discovered by the Florida Advanced Combustion Center, Inc., etc. EFFECTIVE DATE: Contingent.
3/3/2008 SENATE Filed

Linked

[SB 2826](#) Relating to Florida Clean Energy Center, Inc.
3/3/2008 SENATE Filed

SB 2826 Relating to Florida Clean Energy Center, Inc. Posey
Florida Clean Energy Center, Inc.; Creates the Florida Clean Energy Center, Incorporated. Applies specified laws concerning public records and open meetings to the center. Requires that the center establish, at minimum, an office at the Kennedy Space Center. Authorizes the center to develop and implement programs or strategies concerning clean energy. Authorizes the center to invest certain public funds for specified purposes, etc. APPROPRIATION: \$50,000,000. EFFECTIVE DATE: Upon becoming law.
3/3/2008 SENATE Filed

Linked

[SB 2824](#) Relating to Pub. Rec./Florida Advanced Combustion Center, Inc.

3/3/2008 SENATE Filed

- SB 2840 Relating to Alternative Energy** Oelrich
Alternative Energy; Creates the distributed alternative energy generation development initiative. Authorizes certain state agencies, universities, and private sector entities to develop and operate distributed alternative energy generation pilot projects. Provides for pilot projects to receive credit for certain energy generation, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Filed
Identical

[HB 1397](#) Relating to Alternative Energy
3/7/2008 HOUSE Referred to Environment & Natural Resources Council
- SB 2850 Relating to Energy Efficiency** Margolis
Energy Efficiency; Creates the Energy Policy Governance Task Force. Directs the Florida Building Commission to convene a workgroup to develop a model residential energy efficiency ordinance. Requires the commission to consult with specified entities to develop and implement a public awareness campaign. Requires all county, municipal, and public community college buildings to meet certain energy efficiency standards for construction, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Filed
Compare

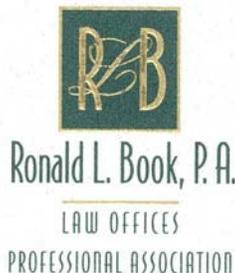
[SB 0308](#) Relating to Energy Conservation
SENATE Referred to Environmental Preservation and Conservation;
11/28/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
[SB 0316](#) Relating to Energy Use
3/7/2008 SENATE Committee Substitute (C1) Filed
[SB 0412](#) Relating to Energy
SENATE Referred to Environmental Preservation and Conservation;
12/13/2007 Communications and Public Utilities; Governmental Operations; Finance and Tax; General Government Appropriations
[SB 0562](#) Relating to Educational Facilities/Building Standards
12/13/2007 SENATE Referred to Environmental Preservation and Conservation; Education Pre-K - 12; Education Facilities Appropriations
Identical

[HB 1413](#) Relating to Energy Efficiency
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- SB 2870 Relating to Renewable Energy** Deutch
Renewable Energy; Expands legislative intent relating to the state's renewable energy policy. Requires the Florida Public Service Commission and the Department of Environmental Protection to submit a report relating to current renewable energy opportunities, resources, and technologies in the state. Requires the commission and the department to evaluate the effects of certain energy-generation methods, etc. EFFECTIVE DATE: 07/01/2008.
3/4/2008 SENATE Filed
Identical

[HB 1375](#) Relating to Renewable Energy
3/7/2008 HOUSE Referred to Environment & Natural Resources Council; Policy & Budget Council
- SB 7028 Relating to Pest Control Compact** Agriculture
Pest Control Compact; Provides for enactment of the compact. Provides findings with respect to the need for all states to cooperate in pest eradication and control programs, etc. EFFECTIVE DATE: Upon becoming law.
1/24/2008 SENATE Filed
1/28/2008 SENATE On Committee agenda - Agriculture, 02/07/08, 9:00 am, 37 S
2/7/2008 SENATE Submitted as Committee Bill by Agriculture; Committee Bill filed as SB 1638

- SB 7034 Relating to Information Technology** Governmental Operations
 Information Technology; Revises the duties of the Legislative Budget Commission with respect to its review of information technology policies and plans. Creates the Office of Open Government within the Executive Office of the Governor. Requires that the Technology Review Workgroup review information technology projects as directed in the General Appropriations Act, etc. EFFECTIVE DATE: 07/01/2008.
 1/28/2008 SENATE On Committee agenda - Governmental Operations, 02/07/08, 9:00 am, 110 S
 2/7/2008 SENATE Submitted as Committee Bill by Governmental Operations
 2/14/2008 SENATE Committee Bill filed as SB 2008
- SB 7076 Relating to Special Appropriations** Fiscal Policy & Calendar
 Special Appropriations; Provides appropriations and reductions in appropriations for the 2007-2008 fiscal year to pay salaries and other expenses, for capital outlay projects such as buildings and other improvements, and for other specified purposes of the various agencies of state government.
 2/28/2008 SENATE Filed; On Committee agenda - Fiscal Policy and Calendar, 03/04/08, 1:15 pm, 110 S
 3/4/2008 SENATE Submitted as Committee Bill by Fiscal Policy and Calendar; Committee Bill Filed as S 2500
- SB 7078 Relating to Implementing 2007-2008 Special Appropriations** Fiscal Policy & Calendar
 Implementing 2007-2008 Special Appropriations; Provides legislative intent. Provides for the incorporation by reference of certain calculations used by the Legislature for the 2007-2008 fiscal year. Provides for the implementation of specified appropriations. Provides legislative intent with respect to reductions in expenditures made by district school boards, etc. EFFECTIVE DATE: Upon becoming law.
 2/28/2008 SENATE Filed; On Committee agenda - Fiscal Policy and Calendar, 03/04/08, 1:15 pm, 110 S
 3/4/2008 SENATE Submitted as Committee Bill by Fiscal Policy and Calendar; Committee Bill filed as S 2502

SESSION UPDATE
WEEK
MARCH 10, 2008



Session Update #1

The 2008 session began with less fanfare than usual as the budget crisis loomed heavily over the traditional opening day festivities. Plagued by continuing losses in state revenues, the first order of business was for members to make cuts in the current year budget.

During this first week, the legislature focused on the current year '07/08 budget making cuts totaling approximately \$500 million. Going forward, estimates indicate that the State budget outlook is worse than expected, with revenue shortfalls to be in the \$2 to \$3 billion range with further cuts to come.

Property Tax Reform

A number of bills have been filed related to property tax reform, including bills related to just property valuation, highest and best use and several others. Additionally, in his opening speech to members, House Speaker Marco Rubio addressed the property tax proposal he supports, which caps property taxes at 1.35% of the property value after deductions for Save Our Homes and homestead exemptions. This proposal applies to all real property. This proposal is currently under review by the Supreme Court. However, the signatures were not collected in enough time to get the proposal on the 2008 ballot. As such, the Speaker has asked the Legislature to consider placing this proposal on the ballot, and it is one of his top priorities for the session. The specific ballot language is below.

(c) Notwithstanding any other provision contained in this Constitution, the maximum amount of all ad valorem taxes collected by counties, school districts, municipalities, and special districts on any parcel of real property shall not, when combined, exceed 1.35% of the parcel's highest taxable value. The term "taxable value" refers to the value of real property to which millage rates are applied. The Legislature shall, by general law, provide for the distribution of tax revenues derived from parcels for which the combined ad valorem tax levies exceed 1.35% of the parcel's highest taxable value. This subsection does not apply to ad valorem taxes levied for the payment of bonds issued pursuant to Section 12 of this Article or levied for periods not longer than two years when authorized by a vote of the electors.

Tax and Budget Reform Commission (TBRC)

We continue to monitor the work of the Taxation and Budget Reform Commission, who at this point are considering the over 50 proposals submitted. The TBRC will be completing their task within the next two months and placing constitutional amendments on the 2008 ballot. The TBRC is considering proposals that range from the elimination of sales tax exemptions, to classroom spending, to property tax reform. A diverse group, the TBRC is chaired by former House Speaker Allen Bense, and while they are charged with reviewing

all of the taxation and budget issues facing Florida, they seem to be focused on property tax reform. They are so singularly focused, that at times, the Chairman has made a point to remind members they have been appointed to study other issues as well.

While they are considering the several issues submitted, the TBRC members realize that if they choose to put too many amendments on the ballot, that they will likely be unsuccessful in accomplishing any reforms. Therefore, we expect them to narrow their focus and place no more than 5 or so items on the ballot. Many items have now been approved through the committee process and will soon be considered by the full Commission. The Commission has decided that to be placed on the ballot, a measure must have 2/3 vote of the full Commission, a supermajority of members.

What is most interesting about this process is that the recommendations by the Commission are due on May 8, which coincides with the end of session, a time in which many of the lobbyists, interests groups and other advocates are consumed with the work of the House and Senate. Both the end of session and the end of the TBRC will most certainly strongly influence the other in some form.

While there are many issues, we have outlined three proposals that seem to be moving through the committee process and have a brief analysis on each of these, the Carlos Lacasa property tax proposal, TABOR and affordable housing.

Property Tax/TBRC

One of the proposals on property tax reform being considered by the TBRC Committee CS/CP 21, sponsored by Commission member Carlos Lacasa, provides an exemption for non-homestead improved residential property equal to a percentage of the just value of the property after the first \$50,000. The proposal provides an additional homestead exemption and limits the annual increases in assessments for non-homestead real property. In addition, a temporary increase in the state sales tax rate is provided to address reductions in ad valorem taxes associated with the constitutional proposal, if passed by the electors.

This proposal has passed committee and now goes to the full Commission for vote along with other property tax reform proposals. The TBRC has not yet set a date for voting on the property tax proposals but has a May 8 deadline to submit all items for the November ballot. Specifically noteworthy because this deadline coincides with the last week of the legislative session with both influencing the other in some form.

TABOR (Taxpayer's Bill of Rights)/TBRC

TABOR or the Taxpayer's Bill of Rights, is a set of constitutional provisions adopted by voters in 1992 in Colorado voters which limit revenue growth for state and local governments and would require that any tax increase in any state or local government (counties, cities, towns, school districts and special districts) must be approved by the voters of that affected government.

Essentially, TABOR is a state tax and expenditure limit with three core elements: it is a constitutional amendment, it restricts revenue or expenditure growth to a formula of

inflation plus population change and it requires voter approval to override the revenue or spending limits.

The central flaw of TABOR is the formula that is used to restrict revenue or expenditure growth. This formula ultimately would cause a decrease in the amount of programs and services the state would be able to provide to its citizens.

Measuring population growth ignores those segments of the population that tend to grow more rapidly than the overall population used in the formula. For example, Florida's elderly population is projected to increase by 146% from 200 to 2030 whereas the total population is only expected to increase by 65%. (Office of Economics & Demographic Research, Demographic Estimating Conference Database, <http://edr.state.fl.us/population.htm>). An increase in the elderly population would result in increased costs of services. However, the revenue limit would prevent elderly services from growing with need, and as a result, these services could only be maintained by making reductions in other areas of the state budget.

To date, only Colorado has succeeded in passing a TABOR amendment, though more than 16 other states have considered this model. Colorado passed their version of TABOR in 1992 and in November 2005, Colorado voters decided to suspend the TABOR amendment for five years. Many considered Colorado's TABOR amendment to be a failure, as it resulted in the deterioration of availability and quality of nearly all major public services in the state. The 2005 vote to suspend the amendment further emphasizes the breakdown of the TABOR concept.

Affordable Housing/TBRC

The Government Procedures & Structure Committee of the TBRC discussed CP 22 regarding the Affordable Housing Trust Fund sponsored by Commissioner Darryl Rouson. CP 22 would create two new trust funds, the State Affordable Housing Trust Fund and the Local Government Affordable Housing Trust Fund and would provide for distribution of 4.85% of documentary stamp tax receipts to the State Affordable Housing Trust Fund and 11.34% of documentary stamp tax receipts to the Local Government Housing Trust Fund.

The amendment directs the Legislature to appropriate funds deposited in the State Affordable Housing and Local Government Affordable Housing trust funds annually, for affordable housing and any funds not appropriated during a fiscal year are to be appropriated in the following fiscal year. CP 22 was passed by the Committee and will now be considered by the full TBRC.

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We will gladly provide you with any additional information or background requested on any issue. Please contact us at your convenience with any questions or comments you may have.

Thank you.

**FRCA DRAFT  
LEGISLATION  
MARCH 3, 2008**

1 **Section 1.**

2 **163.3177 Required and optional elements of comprehensive plan; studies and surveys.--**

3 (1) The comprehensive plan shall consist of materials in such descriptive form, written or  
4 graphic, as may be appropriate to the prescription of principles, guidelines, and standards for the  
5 orderly and balanced future economic, social, physical, environmental, and fiscal development of  
6 the area.

7 (2) Coordination of the several elements of the local comprehensive plan shall be a major  
8 objective of the planning process. The several elements of the comprehensive plan shall be  
9 consistent, and the comprehensive plan shall be financially feasible. Financial feasibility shall be  
10 determined using professionally accepted methodologies and applies to the 5-year planning  
11 period, except in the case of a long-term transportation or school concurrency management  
12 system, in which case a 10-year or 15-year period applies.

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

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

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

22 3. Standards to ensure the availability of public facilities and the adequacy of those facilities  
23 including acceptable levels of service.

1 4. Standards for the management of debt.

2 5. A schedule of capital improvements which includes publicly funded projects, and which may  
3 include privately funded projects for which the local government has no fiscal responsibility,  
4 necessary to ensure that adopted level-of-service standards are achieved and maintained. For  
5 capital improvements that will be funded by the developer, financial feasibility shall be  
6 demonstrated by being guaranteed in an enforceable development agreement or interlocal  
7 agreement pursuant to paragraph (10)(h), or other enforceable agreement. These development  
8 agreements and interlocal agreements shall be reflected in the schedule of capital improvements  
9 if the capital improvement is necessary to serve development within the 5-year schedule. If the  
10 local government uses planned revenue sources that require referenda or other actions to secure  
11 the revenue source, the plan must, in the event the referenda are not passed or actions do not  
12 secure the planned revenue source, identify other existing revenue sources that will be used to  
13 fund the capital projects or otherwise amend the plan to ensure financial feasibility.

14 6. The schedule must include transportation improvements included in the applicable  
15 metropolitan planning organization's transportation improvement program adopted pursuant to s.  
16 339.175(8) to the extent that such improvements are relied upon to ensure concurrency and  
17 financial feasibility. The schedule must also be coordinated with the applicable metropolitan  
18 planning organization's long-range transportation plan adopted pursuant to s. 339.175(7).

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

1 the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land  
2 planning agency. An amendment to the comprehensive plan is required to update the schedule  
3 on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-  
4 year schedule. All public facilities must be consistent with the capital improvements element.  
5 Amendments to implement this section must be adopted and transmitted no later than December  
6 1, 2008. Thereafter, a local government may not amend its future land use map, except for plan  
7 amendments to meet new requirements under this part and emergency amendments pursuant to s.  
8 163.3187(1)(a), after December 1, 2008, and every year thereafter, unless and until the local  
9 government has adopted the annual update and it has been transmitted to the state land planning  
10 agency.

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

15 (c) If the local government does not adopt the required annual update to the schedule of capital  
16 improvements, the state land planning agency must notify the Administration Commission. A  
17 local government that has a demonstrated lack of commitment to meeting its obligations  
18 identified in the capital improvements element may be subject to sanctions by the Administration  
19 Commission pursuant to s. 163.3184(11).

20 (d) If a local government adopts a long-term concurrency management system pursuant to s.  
21 163.3180(9), it must also adopt a long-term capital improvements schedule covering up to a 10-  
22 year or 15-year period, and must update the long-term schedule annually. The long-term  
23 schedule of capital improvements must be financially feasible.

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

- 6 1. Condition in a development order for a development of regional impact or binding agreement  
7 that addresses proportionate-share mitigation consistent with s. 163.3180(12); or
- 8 2. Binding agreement addressing proportionate fair-share mitigation consistent with s.  
9 163.3180(16)(f) and the property subject to the amendment to the future land use map is located  
10 within an area designated in a comprehensive plan for urban infill, urban redevelopment,  
11 downtown revitalization, urban infill and redevelopment, or an urban service area. The binding  
12 agreement must be based on the maximum amount of development identified by the future land  
13 use map amendment or as may be otherwise restricted through a special area plan policy or map  
14 notation in the comprehensive plan.

15 (4)(a) Coordination of the local comprehensive plan with the comprehensive plans of adjacent  
16 municipalities, the county, adjacent counties, ~~or the region~~ and the appropriate strategic regional  
17 policy plan; with the appropriate water management district's regional water supply plans  
18 approved pursuant to s. 373.0361; with adopted rules pertaining to designated areas of critical  
19 state concern; and with the state comprehensive plan shall be a major objective of the local  
20 comprehensive planning process. To that end, in the preparation of a comprehensive plan or  
21 element thereof, and in the comprehensive plan or element as adopted, the governing body shall  
22 include a specific policy statement indicating the relationship of the proposed development of the  
23 area to the comprehensive plans of adjacent municipalities, the county, adjacent counties, ~~or the~~

1 ~~region~~ and the appropriate strategic regional policy plan and to the state comprehensive plan, as  
2 the case may require and as such adopted plans or plans in preparation may exist.

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

8 (5)(a) Each local government comprehensive plan must include at least two planning periods,  
9 one covering at least the first 5-year period occurring after the plan's adoption and one covering  
10 at least a 10-year period.

11 (b) The comprehensive plan and its elements shall contain policy recommendations for the  
12 implementation of the plan and its elements.

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

15 (a) A future land use plan element designating proposed future general distribution, location,  
16 and extent of the uses of land for residential uses, commercial uses, mixed uses, industry,  
17 agriculture, recreation, conservation, education, public buildings and grounds, other public  
18 facilities, and other categories of the public and private uses of land. Counties are encouraged to  
19 designate rural land stewardship areas, pursuant to the provisions of paragraph (11)(d), as  
20 overlays on the future land use map. Each future land use category must be defined in terms of  
21 uses included, and must include standards to be followed in the control and distribution of  
22 population densities and building and structure intensities. The proposed distribution, location,  
23 and extent of the various categories of land use shall be shown on a land use map or map series

1 which shall be supplemented by goals, policies, and measurable objectives. The future land use  
2 plan shall be based upon surveys, studies, and data regarding the area, including the amount of  
3 land required to accommodate anticipated growth; the projected population of the area; the  
4 character of undeveloped land; the availability of water supplies, public facilities, and services;  
5 the need for redevelopment, including the renewal of blighted areas and the elimination of  
6 nonconforming uses which are inconsistent with the character of the community; the  
7 compatibility of uses on lands adjacent to or closely proximate to military installations; and, in  
8 rural communities, the need for job creation, capital investment, and economic development that  
9 will strengthen and diversify the community's economy. In counties with a population of  
10 500,000 or more, the future land use plan must also accommodate anticipated population  
11 increases and support transit development plans contained in the transportation element by  
12 allocating within existing urban areas sufficient density and a mix of uses. All jurisdictions are  
13 encouraged to plan for and establish multi-modal transportation districts. The future land use  
14 plan may designate areas for future planned development use involving combinations of types of  
15 uses for which special regulations may be necessary to ensure development in accord with the  
16 principles and standards of the comprehensive plan and this act. The future land use plan  
17 element shall include criteria to be used to achieve the compatibility of adjacent or closely  
18 proximate lands with military installations. In addition, for rural communities, the amount of  
19 land designated for future planned industrial use shall be based upon surveys and studies that  
20 reflect the need for job creation, capital investment, and the necessity to strengthen and diversify  
21 the local economies, and shall not be limited solely by the projected population of the rural  
22 community. The future land use plan of a county may also designate areas for possible future  
23 municipal incorporation. The land use maps or map series shall generally identify and depict

1 historic district boundaries and shall designate historically significant properties meriting  
2 protection. For coastal counties, the future land use element must include, without limitation,  
3 regulatory incentives and criteria that encourage the preservation of recreational and commercial  
4 working waterfronts as defined in s. 342.07. The future land use element must clearly identify  
5 the land use categories in which public schools are an allowable use. When delineating the land  
6 use categories in which public schools are an allowable use, a local government shall include in  
7 the categories sufficient land proximate to residential development to meet the projected needs  
8 for schools in coordination with public school boards and may establish differing criteria for  
9 schools of different type or size. Each local government shall include lands contiguous to  
10 existing school sites, to the maximum extent possible, within the land use categories in which  
11 public schools are an allowable use. The failure by a local government to comply with these  
12 school siting requirements will result in the prohibition of the local government's ability to  
13 amend the local comprehensive plan, except for plan amendments described in s. 163.3187(1)(b),  
14 until the school siting requirements are met. Amendments proposed by a local government for  
15 purposes of identifying the land use categories in which public schools are an allowable use are  
16 exempt from the limitation on the frequency of plan amendments contained in s. 163.3187. The  
17 future land use element shall include criteria that encourage the location of schools proximate to  
18 urban residential areas to the extent possible and shall require that the local government seek to  
19 collocate public facilities, such as parks, libraries, and community centers, with schools to the  
20 extent possible and to encourage the use of elementary schools as focal points for  
21 neighborhoods. For schools serving predominantly rural counties, defined as a county with a  
22 population of 100,000 or fewer, an agricultural land use category shall be eligible for the location  
23 of public school facilities if the local comprehensive plan contains school siting criteria and the

1 location is consistent with such criteria. Local governments required to update or amend their  
2 comprehensive plan to include criteria and address compatibility of adjacent or closely proximate  
3 lands with existing military installations in their future land use plan element shall transmit the  
4 update or amendment to the department by June 30, 2006.

5 (b) A transportation ~~traffic~~ circulation element consisting of the types, locations, and extent of  
6 existing and proposed major thoroughfares and transportation routes, including public  
7 transportation and bicycle and pedestrian ways. Transportation corridors, as defined in s. 334.03,  
8 may be designated in the transportation ~~traffic~~ circulation element pursuant to s. 337.273. If the  
9 transportation corridors are designated, the local government may adopt a transportation corridor  
10 management ordinance and identify strategies to encourage multi-modal service.

11 (c) A general sanitary sewer, solid waste, drainage, potable water, and natural groundwater  
12 aquifer recharge element correlated to principles and guidelines for future land use, indicating  
13 ways to provide for future potable water, drainage, sanitary sewer, solid waste, and aquifer  
14 recharge protection requirements for the area. The element may be a detailed engineering plan  
15 including a topographic map depicting areas of prime groundwater recharge. The element shall  
16 describe the problems and needs and the general facilities that will be required for solution of the  
17 problems and needs. The element shall also include a topographic map depicting any areas  
18 adopted by a regional water management district as prime groundwater recharge areas for the  
19 Floridan and ~~or~~ Biscayne aquifers. These areas shall be given special consideration when the  
20 local government is engaged in zoning or considering future land use for said designated areas.  
21 For areas served by septic tanks, soil surveys shall be provided which indicate the suitability of  
22 soils for septic tanks. Within 18 months after the governing board approves an updated regional  
23 water supply plan, the element must incorporate the alternative water supply project or projects

1 selected by the local government from those identified in the regional water supply plan pursuant  
2 to s. 373.0361(2)(a) or proposed by the local government under s. 373.0361(7)(b). If a local  
3 government is located within two water management districts, the local government shall adopt  
4 its comprehensive plan amendment within 18 months after the later updated regional water  
5 supply plan. The element must identify such alternative water supply projects and traditional  
6 water supply projects and conservation and reuse necessary to meet the water needs identified in  
7 s. 373.0361(2)(a) within the local government's jurisdiction and include a work plan, covering at  
8 least a 10 year planning period, for building public, private, and regional water supply facilities,  
9 including development of alternative water supplies, which are identified in the element as  
10 necessary to serve existing and new development. The work plan shall be updated, at a  
11 minimum, every 5 years within 18 months after the governing board of a water management  
12 district approves an updated regional water supply plan. Amendments to incorporate the work  
13 plan do not count toward the limitation on the frequency of adoption of amendments to the  
14 comprehensive plan. Local governments, public and private utilities, regional water supply  
15 authorities, special districts, and water management districts are encouraged to cooperatively  
16 plan for the development of multijurisdictional water supply facilities that are sufficient to meet  
17 projected demands for established planning periods, including the development of alternative  
18 water sources to supplement traditional sources of groundwater and surface water supplies.

19 (d) A conservation element for the conservation, use, and protection of natural resources in the  
20 area, including air, water, water recharge areas, wetlands, waterwells, estuarine marshes, soils,  
21 beaches, shores, flood plains, rivers, bays, lakes, harbors, forests, fisheries and wildlife, marine  
22 habitat, minerals, and other natural and environmental resources. Local governments shall assess  
23 their current, as well as projected, water needs and sources for at least a 10-year period,

1 considering the appropriate regional water supply plan approved pursuant to s. 373.0361, or, in  
2 the absence of an approved regional water supply plan, the district water management plan  
3 approved pursuant to s. 373.036(2). This information shall be submitted to the appropriate  
4 agencies. The land use map or map series contained in the future land use element shall  
5 generally identify and depict the following:

- 6 1. Existing and planned waterwells and cones of influence where applicable.
- 7 2. Beaches and shores, including estuarine systems.
- 8 3. Rivers, bays, lakes, flood plains, and harbors.
- 9 4. Wetlands.
- 10 5. Minerals and soils.

11

12 The land uses identified on such maps shall be consistent with applicable state law and rules.

13 (e) A recreation and open space element indicating a comprehensive system of public and  
14 private sites for recreation, including, but not limited to, natural reservations, parks and  
15 playgrounds, parkways, beaches and public access to beaches, open spaces, waterways, and other  
16 recreational facilities.

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

- 18 a. The provision of housing for all current and anticipated future residents of the jurisdiction.
- 19 b. The elimination of substandard dwelling conditions.
- 20 c. The structural and aesthetic improvement of existing housing.
- 21 d. The provision of adequate sites for future housing, including affordable workforce housing as  
22 defined in s. 380.0651(3)(j), housing for low-income, very low-income, and moderate-income

1 families, mobile homes, and group home facilities and foster care facilities, with supporting  
2 infrastructure and public facilities.

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

5 f. The formulation of housing implementation programs.

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

9 h. By July 1, 2008, each county in which the gap between the buying power of a family of four  
10 and the median county home sale price exceeds \$170,000, as determined by the Florida Housing  
11 Finance Corporation, and which is not designated as an area of critical state concern shall adopt a  
12 plan for ensuring affordable workforce housing. At a minimum, the plan shall identify adequate  
13 sites for such housing. For purposes of this sub-subparagraph, the term "workforce housing"  
14 means housing that is affordable to natural persons or families whose total household income  
15 does not exceed 140 percent of the area median income, adjusted for household size.

16 i. Failure by a local government to comply with the requirement in sub-subparagraph h. will  
17 result in the local government being ineligible to receive any state housing assistance grants until  
18 the requirement of sub-subparagraph h. is met.

19

20 The goals, objectives, and policies of the housing element must be based on the data and analysis  
21 prepared on housing needs, including the affordable housing needs assessment. State and federal  
22 housing plans prepared on behalf of the local government must be consistent with the goals,  
23 objectives, and policies of the housing element. Local governments are encouraged to utilize job

1 training, job creation, and economic solutions to address a portion of their affordable housing  
2 concerns.

3 2. To assist local governments in housing data collection and analysis and assure uniform and  
4 consistent information regarding the state's housing needs, the state land planning agency shall  
5 conduct an affordable housing needs assessment for all local jurisdictions on a schedule that  
6 coordinates the implementation of the needs assessment with the evaluation and appraisal reports  
7 required by s. 163.3191. Each local government shall utilize the data and analysis from the  
8 needs assessment as one basis for the housing element of its local comprehensive plan. The  
9 agency shall allow a local government the option to perform its own needs assessment, if it uses  
10 the methodology established by the agency by rule.

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

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

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

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

21 d. Avoidance of irreversible and irretrievable loss of coastal zone resources.

22 e. Ecological planning principles and assumptions to be used in the determination of suitability  
23 and extent of permitted development.

- 1 f. Proposed management and regulatory techniques.
- 2 g. Limitation of public expenditures that subsidize development in coastal high-hazard ~~coastal~~  
3 areas.
- 4 h. Protection of human life and mitigation of property loss from ~~against~~ the effects of natural  
5 disasters.
- 6 i. The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate  
7 deepwater commercial navigation and other related activities.
- 8 j. Preservation, including sensitive adaptive use of historic and archaeological resources.
- 9 2. As part of this element, a local government that has a coastal management element in its  
10 comprehensive plan is encouraged to adopt recreational surface water use policies that include  
11 applicable criteria for and consider such factors as natural resources, manatee protection needs,  
12 protection of working waterfronts and public access to the water, and recreation and economic  
13 demands. Criteria for manatee protection in the recreational surface water use policies should  
14 reflect applicable guidance outlined in the Boat Facility Siting Guide prepared by the Fish and  
15 Wildlife Conservation Commission. If the local government elects to adopt recreational surface  
16 water use policies by comprehensive plan amendment, such comprehensive plan amendment is  
17 exempt from the provisions of s. 163.3187(1). Local governments that wish to adopt recreational  
18 surface water use policies may be eligible for assistance with the development of such policies  
19 through the Florida Coastal Management Program. The Office of Program Policy Analysis and  
20 Government Accountability shall submit a report on the adoption of recreational surface water  
21 use policies under this subparagraph to the President of the Senate, the Speaker of the House of  
22 Representatives, and the majority and minority leaders of the Senate and the House of  
23 Representatives no later than December 1, 2010.

1 (h)1. An intergovernmental coordination element showing relationships and stating principles  
2 and guidelines to be used in the accomplishment of coordination of the adopted comprehensive  
3 plan with the plans of school boards, regional water supply authorities, and other units of local  
4 government providing services but not having regulatory authority over the use of land, with the  
5 comprehensive plans of adjacent municipalities, the county, adjacent counties, the appropriate  
6 strategic regional policy plan ~~or the region~~, with the state comprehensive plan and with the  
7 applicable regional water supply plan approved pursuant to s. 373.0361, as the case may require  
8 and as such adopted plans or plans in preparation may exist. This element of the local  
9 comprehensive plan shall demonstrate consideration of the particular effects of the local plan,  
10 when adopted, upon the development of adjacent municipalities, the county, adjacent counties,  
11 the appropriate strategic regional policy plan ~~or the region~~, or upon the state comprehensive plan,  
12 as the case may require.

13 a. The intergovernmental coordination element shall provide for procedures to identify and  
14 implement joint planning areas, especially for the purpose of annexation, municipal  
15 incorporation, and joint infrastructure service areas.

16 b. The intergovernmental coordination element shall provide for recognition of campus master  
17 plans prepared pursuant to s. 1013.30.

18 c. The intergovernmental coordination element may provide for a voluntary dispute resolution  
19 process as established pursuant to s. 186.509 for bringing to closure in a timely manner  
20 intergovernmental disputes. A local government may develop and use an alternative local  
21 dispute resolution process for this purpose.

1 The intergovernmental coordination element shall provide a statement of how and where the  
2 adopted local comprehensive plan is compatible with and furthers the adopted regional vision  
3 contained within the applicable strategic regional policy plan.

4 2. The intergovernmental coordination element shall further state principles and guidelines to be  
5 used in the accomplishment of coordination of the adopted comprehensive plan with the plans of  
6 school boards and other units of local government providing facilities and services but not  
7 having regulatory authority over the use of land. In addition, the intergovernmental coordination  
8 element shall describe joint processes for collaborative planning and decisionmaking on  
9 population projections and public school siting, the location and extension of public facilities  
10 subject to concurrency, and siting facilities with countywide significance, including locally  
11 unwanted land uses whose nature and identity are established in an agreement. Within 1 year of  
12 adopting their intergovernmental coordination elements, each county, all the municipalities  
13 within that county, the district school board, and any unit of local government service providers  
14 in that county shall establish by interlocal or other formal agreement executed by all affected  
15 entities, the joint processes described in this subparagraph consistent with their adopted  
16 intergovernmental coordination elements.

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

21 4.a. Local governments must execute an interlocal agreement with the district school board, the  
22 county, and nonexempt municipalities pursuant to s. 163.31777. The local government shall  
23 amend the intergovernmental coordination element to provide that coordination between the

1 local government and school board is pursuant to the agreement and shall state the obligations of  
2 the local government under the agreement.

3 b. Plan amendments that comply with this subparagraph are exempt from the provisions of s.  
4 163.3187(1).

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

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

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

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

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

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

4 (i) The optional elements of the comprehensive plan in paragraphs (7)(a) and (b) are required  
5 elements for those municipalities having populations greater than 50,000, and those counties  
6 having populations greater than 75,000, as determined under s. 186.901.

7 (j) For each unit of local government within an urbanized area designated for purposes of s.  
8 339.175, a transportation element, which shall be prepared and adopted in lieu of the  
9 requirements of paragraph (b) and paragraphs (7)(a), (b), (c), and (d) and which shall address the  
10 following issues:

11 1. Transportation ~~Traffic~~ circulation, including major thoroughfares, public transportation and  
12 other routes, including bicycle and pedestrian ways. This element shall identify premium  
13 transportation corridors and strategies for upgrading these corridors to support and accommodate  
14 modes of transportation in addition to automobiles.

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

16 3. Parking facilities.

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

18 5. The availability of facilities and services to serve existing land uses and the compatibility  
19 between future land use and transportation elements to encourage urban infill, reduce vehicular  
20 miles traveled and support transit development.

21 6. The capability to evacuate the coastal population prior to an impending natural disaster.

22 7. Airports, projected airport and aviation development, and land use compatibility around  
23 airports.

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

4 9. The identification of existing multi-modal transportation districts and areas suitable for new  
5 or expanded multi-modal transportation district designation based on minimum criteria  
6 established for land use and adequate levels of mobility for all modes of transportation. The size,  
7 density, and intensity of a transportation multi-modal district will be based, in part, on  
8 community character and criteria set forth in s.163.3180 15(a) and (b) .

9 ~~10. -9.~~ May include transportation corridors, as defined in s. 334.03, intended for future  
10 transportation facilities designated pursuant to s. 337.273. If transportation corridors are  
11 designated, the local government may adopt a transportation corridor management ordinance.

12 (k) An airport master plan, and any subsequent amendments to the airport master plan, prepared  
13 by a licensed publicly owned and operated airport under s. 333.06 may be incorporated into the  
14 local government comprehensive plan by the local government having jurisdiction under this act  
15 for the area in which the airport or projected airport development is located by the adoption of a  
16 comprehensive plan amendment. In the amendment to the local comprehensive plan that  
17 integrates the airport master plan, the comprehensive plan amendment shall address land use  
18 compatibility consistent with chapter 333 regarding airport zoning; the provision of regional  
19 transportation facilities for the efficient use and operation of the transportation system and  
20 airport; consistency with the local government transportation circulation element and applicable  
21 metropolitan planning organization long-range transportation plans; and the execution of any  
22 necessary interlocal agreements for the purposes of the provision of public facilities and services  
23 to maintain the adopted level-of-service standards for facilities subject to concurrency; and may

1 address airport-related or aviation-related development. Development or expansion of an airport  
2 consistent with the adopted airport master plan that has been incorporated into the local  
3 comprehensive plan in compliance with this part, and airport-related or aviation-related  
4 development that has been addressed in the comprehensive plan amendment that incorporates the  
5 airport master plan, shall not be a development of regional impact. Notwithstanding any other  
6 general law, an airport that has received a development-of-regional-impact development order  
7 pursuant to s. 380.06, but which is no longer required to undergo development-of-regional-  
8 impact review pursuant to this subsection, may abandon its development-of-regional-impact  
9 order upon written notification to the applicable local government. Upon receipt by the local  
10 government, the development-of-regional-impact development order is void.

11 (7) The comprehensive plan may include the following additional elements, or portions or  
12 phases thereof:

13 (a) As a part of the transportation circulation element of paragraph (6)(b) or as a separate  
14 element, a mass-transit element showing proposed methods for the moving of people, rights-of-  
15 way, terminals, related facilities, and fiscal considerations for the accomplishment of the  
16 element.

17 (b) As a part of the transportation circulation element of paragraph (6)(b) or as a separate  
18 element, plans for port, aviation, and related facilities coordinated with the general circulation  
19 and transportation element.

20 (c) As a part of the transportation circulation element of paragraph (6)(b) and in coordination  
21 with paragraph (6)(e), where applicable, a plan element for the circulation of recreational traffic,  
22 including bicycle facilities, exercise trails, riding facilities, and such other matters as may be  
23 related to the improvement and safety of movement of all types of recreational traffic.

- 1 (d) As a part of the transportation circulation element of paragraph (6)(b) or as a separate  
2 element, a plan element for the development of offstreet parking facilities for motor vehicles and  
3 the fiscal considerations for the accomplishment of the element.
- 4 (e) A public buildings and related facilities element showing locations and arrangements of civic  
5 and community centers, public schools, hospitals, libraries, police and fire stations, and other  
6 public buildings. This plan element should show particularly how it is proposed to effect  
7 coordination with governmental units, such as school boards or hospital authorities, having  
8 public development and service responsibilities, capabilities, and potential but not having land  
9 development regulatory authority. This element may include plans for architecture and  
10 landscape treatment of their grounds.
- 11 (f) A recommended community design element which may consist of design recommendations  
12 for land subdivision, neighborhood development and redevelopment, transit-oriented  
13 development, mixed-use development, design of open space locations, and similar matters to the  
14 end that such recommendations may be available as aids and guides to developers in the future  
15 planning and development of land in the area.
- 16 (g) A general area redevelopment element consisting of plans and programs for the  
17 redevelopment of slums and blighted locations in the area and for community redevelopment,  
18 including housing sites, business and industrial sites, public buildings sites, recreational  
19 facilities, and other purposes authorized by law.
- 20 (h) A safety element for the protection of residents and property of the area from fire, hurricane,  
21 or manmade or natural catastrophe, including such necessary features for protection as  
22 evacuation routes and their control in an emergency, water supply requirements, minimum road  
23 widths, clearances around and elevations of structures, and similar matters.

- 1 (i) An historical and scenic preservation element setting out plans and programs for those  
2 structures or lands in the area having historical, archaeological, architectural, scenic, or similar  
3 significance.
- 4 (j) An economic element setting forth principles and guidelines for the commercial and  
5 industrial development, if any, and the employment and personnel utilization within the area.  
6 The element may detail the type of commercial and industrial development sought, correlated to  
7 the present and projected employment needs of the area and to other elements of the plans, and  
8 may set forth methods by which a balanced and stable economic base will be pursued. This  
9 element shall contain an analysis of the availability and connectivity of public transportation to  
10 employment sites.
- 11 (k) Such other elements as may be peculiar to, and necessary for, the area concerned and as are  
12 added to the comprehensive plan by the governing body upon the recommendation of the local  
13 planning agency.
- 14 (l) Local governments that are not required to prepare coastal management elements under s.  
15 163.3178 are encouraged to adopt hazard mitigation/postdisaster redevelopment plans. These  
16 plans should, at a minimum, establish long-term policies regarding redevelopment,  
17 infrastructure, densities, nonconforming uses, and future land use patterns. Grants to assist local  
18 governments in the preparation of these hazard mitigation/postdisaster redevelopment plans shall  
19 be available through the Emergency Management Preparedness and Assistance Account in the  
20 Grants and Donations Trust Fund administered by the department, if such account is created by  
21 law. The plans must be in compliance with the requirements of this act and chapter 252.
- 22 (8) All elements of the comprehensive plan, whether mandatory or optional, shall be based upon  
23 data appropriate to the element involved. Surveys and studies utilized in the preparation of the

1 comprehensive plan shall not be deemed a part of the comprehensive plan unless adopted as a  
2 part of it. Copies of such studies, surveys, and supporting documents shall be made available to  
3 public inspection, and copies of such plans shall be made available to the public upon payment  
4 of reasonable charges for reproduction.

5 (9) The state land planning agency shall, by February 15, 1986, adopt by rule minimum criteria  
6 for the review and determination of compliance of the local government comprehensive plan  
7 elements required by this act. Such rules shall not be subject to rule challenges under s.

8 120.56(2) or to drawout proceedings under s. 120.54(3)(c)2. Such rules shall become effective  
9 only after they have been submitted to the President of the Senate and the Speaker of the House  
10 of Representatives for review by the Legislature no later than 30 days prior to the next regular  
11 session of the Legislature. In its review the Legislature may reject, modify, or take no action  
12 relative to the rules. The agency shall conform the rules to the changes made by the Legislature,  
13 or, if no action was taken, the agency rules shall become effective. The rule shall include criteria  
14 for determining whether:

15 (a) Proposed elements are in compliance with the requirements of part II, as amended by this  
16 act.

17 (b) Other elements of the comprehensive plan are related to and consistent with each other.

18 (c) The local government comprehensive plan elements are consistent with the state  
19 comprehensive plan and the appropriate strategic regional policy plan pursuant to s. 186.508.

20 (d) Certain bays, estuaries, and harbors that fall under the jurisdiction of more than one local  
21 government are managed in a consistent and coordinated manner in the case of local  
22 governments required to include a coastal management element in their comprehensive plans  
23 pursuant to paragraph (6)(g).

1 (e) Proposed elements identify the mechanisms and procedures for monitoring, evaluating, and  
2 appraising implementation of the plan. Specific measurable objectives are included to provide a  
3 basis for evaluating effectiveness as required by s. 163.3191.

4 (f) Proposed elements contain policies to guide future decisions in a consistent manner.

5 (g) Proposed elements contain programs and activities to ensure that comprehensive plans are  
6 implemented.

7 (h) Proposed elements identify the need for and the processes and procedures to ensure  
8 coordination of all development activities and services with other units of local government,  
9 regional planning agencies, water management districts, and state and federal agencies as  
10 appropriate.

11

12 The state land planning agency may adopt procedural rules that are consistent with this section  
13 and chapter 120 for the review of local government comprehensive plan elements required under  
14 this section. The state land planning agency shall provide model plans and ordinances and, upon  
15 request, other assistance to local governments in the adoption and implementation of their  
16 revised local government comprehensive plans. The review and comment provisions applicable  
17 prior to October 1, 1985, shall continue in effect until the criteria for review and determination  
18 are adopted pursuant to this subsection and the comprehensive plans required by s. 163.3167(2)  
19 are due.

20 (10) The Legislature recognizes the importance and significance of chapter 9J-5, Florida  
21 Administrative Code, the Minimum Criteria for Review of Local Government Comprehensive  
22 Plans and Determination of Compliance of the Department of Community Affairs that will be  
23 used to determine compliance of local comprehensive plans. The Legislature reserved unto itself

1 the right to review chapter 9J-5, Florida Administrative Code, and to reject, modify, or take no  
2 action relative to this rule. Therefore, pursuant to subsection (9), the Legislature hereby has  
3 reviewed chapter 9J-5, Florida Administrative Code, and expresses the following legislative  
4 intent:

5 (a) The Legislature finds that in order for the department to review local comprehensive plans, it  
6 is necessary to define the term "consistency." Therefore, for the purpose of determining whether  
7 local comprehensive plans are consistent with the state comprehensive plan and the appropriate  
8 strategic regional policy plan, a local plan shall be consistent with such plans if the local plan is  
9 "compatible with" and "furthers" such plans. The term "compatible with" means that the local  
10 plan is not in conflict with the state comprehensive plan or appropriate strategic regional policy  
11 plan. The term "furthers" means to take action in the direction of realizing goals or policies of  
12 the state or regional plan. For the purposes of determining consistency of the local plan with the  
13 state comprehensive plan or the appropriate strategic regional policy plan, the state or regional  
14 plan shall be construed as a whole and no specific goal and policy shall be construed or applied  
15 in isolation from the other goals and policies in the plans.

16 (b) Each local government shall review all the state comprehensive plan goals and policies and  
17 the appropriate strategic regional policy plan and shall address in its comprehensive plan the  
18 goals and policies which are relevant to the circumstances or conditions in its jurisdiction. The  
19 decision regarding which particular state comprehensive plan goals and policies will be furthered  
20 by the expenditure of a local government's financial resources in any given year is a decision  
21 which rests solely within the discretion of the local government. Intergovernmental  
22 coordination, as set forth in paragraph (6)(h), shall be utilized to the extent required to carry out  
23 the provisions of chapter 9J-5, Florida Administrative Code.

1 (c) The Legislature declares that if any portion of chapter 9J-5, Florida Administrative Code, is  
2 found to be in conflict with this part, the appropriate statutory provision shall prevail.

3 (d) Chapter 9J-5, Florida Administrative Code, does not mandate the creation, limitation, or  
4 elimination of regulatory authority, nor does it authorize the adoption or require the repeal of any  
5 rules, criteria, or standards of any local, regional, or state agency.

6 (e) It is the Legislature's intent that support data or summaries thereof shall not be subject to the  
7 compliance review process, but the Legislature intends that goals and policies be clearly based  
8 on appropriate data. The department may utilize support data or summaries thereof to aid in its  
9 determination of compliance and consistency. The Legislature intends that the department may  
10 evaluate the application of a methodology utilized in data collection or whether a particular  
11 methodology is professionally accepted. However, the department shall not evaluate whether  
12 one accepted methodology is better than another. Chapter 9J-5, Florida Administrative Code,  
13 shall not be construed to require original data collection by local governments; however, local  
14 governments are not to be discouraged from utilizing original data so long as methodologies are  
15 professionally accepted.

16 (f) The Legislature recognizes that under this section, local governments are charged with  
17 setting levels of service for public facilities in their comprehensive plans in accordance with  
18 which development orders and permits will be issued pursuant to s. 163.3202(2)(g). Nothing  
19 herein shall supersede the authority of state, regional, or local agencies as otherwise provided by  
20 law.

21 (g) Definitions contained in chapter 9J-5, Florida Administrative Code, are not intended to  
22 modify or amend the definitions utilized for purposes of other programs or rules or to establish or  
23 limit regulatory authority. Local governments may establish alternative definitions in local

1 comprehensive plans, as long as such definitions accomplish the intent of this chapter, and  
2 chapter 9J-5, Florida Administrative Code.

3 (h) It is the intent of the Legislature that public facilities and services needed to support  
4 development shall be available concurrent with the impacts of such development in accordance  
5 with s. 163.3180. In meeting this intent, public facility and service availability shall be deemed  
6 sufficient if the public facilities and services for a development are phased, or the development is  
7 phased, so that the public facilities and those related services which are deemed necessary by the  
8 local government to operate the facilities necessitated by that development are available  
9 concurrent with the impacts of the development. The public facilities and services, unless  
10 already available, are to be consistent with the capital improvements element of the local  
11 comprehensive plan as required by paragraph (3)(a) or guaranteed in an enforceable development  
12 agreement. This shall include development agreements pursuant to this chapter or in an  
13 agreement or a development order issued pursuant to chapter 380. Nothing herein shall be  
14 construed to require a local government to address services in its capital improvements plan or to  
15 limit a local government's ability to address any service in its capital improvements plan that it  
16 deems necessary.

17 (i) The department shall take into account the factors delineated in rule 9J-5.002(2), Florida  
18 Administrative Code, as it provides assistance to local governments and applies the rule in  
19 specific situations with regard to the detail of the data and analysis required.

20 (j) Chapter 9J-5, Florida Administrative Code, has become effective pursuant to subsection (9).  
21 The Legislature hereby directs the department to adopt amendments as necessary which conform  
22 chapter 9J-5, Florida Administrative Code, with the requirements of this legislative intent by  
23 October 1, 1986.

1 (k) So that local governments are able to prepare and adopt comprehensive plans with  
2 knowledge of the rules that will be applied to determine consistency of the plans with provisions  
3 of this part, it is the intent of the Legislature that there should be no doubt as to the legal standing  
4 of chapter 9J-5, Florida Administrative Code, at the close of the 1986 legislative session.  
5 Therefore, the Legislature declares that changes made to chapter 9J-5, Florida Administrative  
6 Code, prior to October 1, 1986, shall not be subject to rule challenges under s. 120.56(2), or to  
7 drawout proceedings under s. 120.54(3)(c)2. The entire chapter 9J-5, Florida Administrative  
8 Code, as amended, shall be subject to rule challenges under s. 120.56(3), as nothing herein shall  
9 be construed to indicate approval or disapproval of any portion of chapter 9J-5, Florida  
10 Administrative Code, not specifically addressed herein. No challenge pursuant to s. 120.56(3)  
11 may be filed from July 1, 1987, through April 1, 1993. Any amendments to chapter 9J-5, Florida  
12 Administrative Code, exclusive of the amendments adopted prior to October 1, 1986, pursuant to  
13 this act, shall be subject to the full chapter 120 process. All amendments shall have effective  
14 dates as provided in chapter 120 and submission to the President of the Senate and Speaker of  
15 the House of Representatives shall not be required.

16 (l) The state land planning agency shall consider land use compatibility issues in the vicinity of  
17 all airports in coordination with the Department of Transportation and adjacent to or in close  
18 proximity to all military installations in coordination with the Department of Defense.

19 (11)(a) The Legislature recognizes the need for innovative planning and development strategies  
20 which will address the anticipated demands of continued urbanization of Florida's coastal and  
21 other environmentally sensitive areas, and which will accommodate the development of less  
22 populated regions of the state which seek economic development and which have suitable land  
23 and water resources to accommodate growth in an environmentally acceptable manner. The

1 Legislature further recognizes the substantial advantages of innovative approaches to  
2 development which may better serve to protect environmentally sensitive areas, maintain the  
3 economic viability of agricultural and other predominantly rural land uses, and provide for the  
4 cost-efficient delivery of public facilities and services.

5 (b) It is the intent of the Legislature that the local government comprehensive plans and plan  
6 amendments adopted pursuant to the provisions of this part provide for a planning process which  
7 allows for land use efficiencies within existing urban areas and which also allows for the  
8 conversion of rural lands to other uses, where appropriate and consistent with the other  
9 provisions of this part and the affected local comprehensive plans, through the application of  
10 innovative and flexible planning and development strategies and creative land use planning  
11 techniques, which may include, but not be limited to, urban villages, new towns, satellite  
12 communities, area-based allocations, clustering and open space provisions, mixed-use  
13 development, and sector planning.

14 (c) It is the further intent of the Legislature that local government comprehensive plans and  
15 implementing land development regulations shall provide strategies which maximize the use of  
16 existing facilities and services through redevelopment, urban infill development, and other  
17 strategies for urban revitalization, including identifying projects that should receive priority state  
18 funding for these purposes.

19 (d)1. The department, in cooperation with the Department of Agriculture and Consumer  
20 Services, the Department of Environmental Protection, water management districts, and regional  
21 planning councils, shall provide assistance to local governments in the implementation of this  
22 paragraph and rule 9J-5.006(5)(1), Florida Administrative Code. Implementation of those  
23 provisions shall include a process by which the department may authorize local governments to

1 designate all or portions of lands classified in the future land use element as predominantly  
2 agricultural, rural, open, open-rural, or a substantively equivalent land use, as a rural land  
3 stewardship area within which planning and economic incentives are applied to encourage the  
4 implementation of innovative and flexible planning and development strategies and creative land  
5 use planning techniques, including those contained herein and in rule 9J-5.006(5)(1), Florida  
6 Administrative Code. Assistance may include, but is not limited to:

- 7 a. Assistance from the Department of Environmental Protection and water management districts  
8 in creating the geographic information systems land cover database and aerial photogrammetry  
9 needed to prepare for a rural land stewardship area;
- 10 b. Support for local government implementation of rural land stewardship concepts by providing  
11 information and assistance to local governments regarding land acquisition programs that may be  
12 used by the local government or landowners to leverage the protection of greater acreage and  
13 maximize the effectiveness of rural land stewardship areas; and
- 14 c. Expansion of the role of the Department of Community Affairs as a resource agency to  
15 facilitate establishment of rural land stewardship areas in smaller rural counties that do not have  
16 the staff or planning budgets to create a rural land stewardship area.

17 2. The department shall encourage participation by local governments of different sizes and  
18 rural characteristics in establishing and implementing rural land stewardship areas. It is the  
19 intent of the Legislature that rural land stewardship areas be used to further the following broad  
20 principles of rural sustainability: restoration and maintenance of the economic value of rural  
21 land; control of urban sprawl; identification and protection of ecosystems, habitats, and natural  
22 resources; promotion of rural economic activity; maintenance of the viability of Florida's  
23 agricultural economy; and protection of the character of rural areas of Florida. Rural land

1 stewardship areas may be multicounty in order to encourage coordinated regional stewardship  
2 planning.

3 3. A local government, in conjunction with a regional planning council, a stakeholder  
4 organization of private land owners, or another local government, shall notify the department in  
5 writing of its intent to designate a rural land stewardship area. The written notification shall  
6 describe the basis for the designation, including the extent to which the rural land stewardship  
7 area enhances rural land values, controls urban sprawl, provides necessary open space for  
8 agriculture and protection of the natural environment, promotes rural economic activity, and  
9 maintains rural character and the economic viability of agriculture.

10 4. A rural land stewardship area shall be not less than 10,000 acres and shall be located outside  
11 of municipalities and established urban growth boundaries, and shall be designated by plan  
12 amendment. The plan amendment designating a rural land stewardship area shall be subject to  
13 review by the Department of Community Affairs pursuant to s. 163.3184 and shall provide for  
14 the following:

15 a. Criteria for the designation of receiving areas within rural land stewardship areas in which  
16 innovative planning and development strategies may be applied. Criteria shall at a minimum  
17 provide for the following: adequacy of suitable land to accommodate development so as to avoid  
18 conflict with environmentally sensitive areas, resources, and habitats; compatibility between and  
19 transition from higher density uses to lower intensity rural uses; the establishment of receiving  
20 area service boundaries which provide for a separation between receiving areas and other land  
21 uses within the rural land stewardship area through limitations on the extension of services; and  
22 connection of receiving areas with the rest of the rural land stewardship area using rural design  
23 and rural road corridors.

- 1 b. Goals, objectives, and policies setting forth the innovative planning and development  
2 strategies to be applied within rural land stewardship areas pursuant to the provisions of this  
3 section.
- 4 c. A process for the implementation of innovative planning and development strategies within  
5 the rural land stewardship area, including those described in this subsection and rule 9J-  
6 5.006(5)(1), Florida Administrative Code, which provide for a functional mix of land uses,  
7 including adequate available workforce housing, including low, very-low and moderate income  
8 housing for the development anticipated in the receiving area and which are applied through the  
9 adoption by the local government of zoning and land development regulations applicable to the  
10 rural land stewardship area.
- 11 d. A process which encourages visioning pursuant to s. 163.3167(11) to ensure that innovative  
12 planning and development strategies comply with the provisions of this section.
- 13 e. The control of sprawl through the use of innovative strategies and creative land use  
14 techniques consistent with the provisions of this subsection and rule 9J-5.006(5)(1), Florida  
15 Administrative Code.
- 16 5. A receiving area shall be designated by the adoption of a land development regulation. Prior  
17 to the designation of a receiving area, the local government shall provide the Department of  
18 Community Affairs a period of 30 days in which to review a proposed receiving area for  
19 consistency with the rural land stewardship area plan amendment and to provide comments to the  
20 local government. At the time of designation of a stewardship receiving area, a listed species  
21 survey will be performed. If listed species occur on the receiving area site, the developer shall  
22 coordinate with each appropriate local, state, or federal agency to determine if adequate  
23 provisions have been made to protect those species in accordance with applicable regulations. In

1 determining the adequacy of provisions for the protection of listed species and their habitats, the  
2 rural land stewardship area shall be considered as a whole, and the impacts to areas to be  
3 developed as receiving areas shall be considered together with the environmental benefits of  
4 areas protected as sending areas in fulfilling this criteria.

5 6. Upon the adoption of a plan amendment creating a rural land stewardship area, the local  
6 government shall, by ordinance, establish the methodology for the creation, conveyance, and use  
7 of transferable rural land use credits, otherwise referred to as stewardship credits, the application  
8 of which shall not constitute a right to develop land, nor increase density of land, except as  
9 provided by this section. The total amount of transferable rural land use credits within the rural  
10 land stewardship area must enable the realization of the long-term vision and goals for the 25-  
11 year or greater projected population of the rural land stewardship area, which may take into  
12 consideration the anticipated effect of the proposed receiving areas. Transferable rural land use  
13 credits are subject to the following limitations:

14 a. Transferable rural land use credits may only exist within a rural land stewardship area.

15 b. Transferable rural land use credits may only be used on lands designated as receiving areas  
16 and then solely for the purpose of implementing innovative planning and development strategies  
17 and creative land use planning techniques adopted by the local government pursuant to this  
18 section.

19 c. Transferable rural land use credits assigned to a parcel of land within a rural land stewardship  
20 area shall cease to exist if the parcel of land is removed from the rural land stewardship area by  
21 plan amendment.

22 d. Neither the creation of the rural land stewardship area by plan amendment nor the assignment  
23 of transferable rural land use credits by the local government shall operate to displace the

1 underlying density of land uses assigned to a parcel of land within the rural land stewardship  
2 area; however, if transferable rural land use credits are transferred from a parcel for use within a  
3 designated receiving area, the underlying density assigned to the parcel of land shall cease to  
4 exist.

5 e. The underlying density on each parcel of land located within a rural land stewardship area  
6 shall not be increased or decreased by the local government, except as a result of the conveyance  
7 or use of transferable rural land use credits, as long as the parcel remains within the rural land  
8 stewardship area.

9 f. Transferable rural land use credits shall cease to exist on a parcel of land where the underlying  
10 density assigned to the parcel of land is utilized.

11 g. An increase in the density of use on a parcel of land located within a designated receiving  
12 area may occur only through the assignment or use of transferable rural land use credits and shall  
13 not require a plan amendment.

14 h. A change in the density of land use on parcels located within receiving areas shall be  
15 specified in a development order which reflects the total number of transferable rural land use  
16 credits assigned to the parcel of land and the infrastructure and support services necessary to  
17 provide for a functional mix of land uses corresponding to the plan of development.

18 i. Land within a rural land stewardship area may be removed from the rural land stewardship  
19 area through a plan amendment.

20 j. Transferable rural land use credits may be assigned at different ratios of credits per acre  
21 according to the natural resource or other beneficial use characteristics of the land and according  
22 to the land use remaining following the transfer of credits, with the highest number of credits per

1 acre assigned to the most environmentally valuable land or, in locations where the retention of  
2 open space and agricultural land is a priority, to such lands.

3 k. The use or conveyance of transferable rural land use credits must be recorded in the public  
4 records of the county in which the property is located as a covenant or restrictive easement  
5 running with the land in favor of the county and either the Department of Environmental  
6 Protection, Department of Agriculture and Consumer Services, a water management district, or a  
7 recognized statewide land trust.

8 7. Owners of land within rural land stewardship areas should be provided incentives to enter into  
9 rural land stewardship agreements, pursuant to existing law and rules adopted thereto, with state  
10 agencies, water management districts, and local governments to achieve mutually agreed upon  
11 conservation objectives. Such incentives may include, but not be limited to, the following:

12 a. Opportunity to accumulate transferable mitigation credits.

13 b. Extended permit agreements.

14 c. Opportunities for recreational leases and ecotourism.

15 d. Payment for specified land management services on publicly owned land, or property under  
16 covenant or restricted easement in favor of a public entity.

17 e. Option agreements for sale to public entities or private land conservation entities, in either fee  
18 or easement, upon achievement of conservation objectives.

19 8. The department shall report to the Legislature on an annual basis on the results of  
20 implementation of rural land stewardship areas authorized by the department, including  
21 successes and failures in achieving the intent of the Legislature as expressed in this paragraph.

22 (e) The Legislature finds that mixed-use, high-density development is appropriate for urban  
23 infill and redevelopment areas. Mixed-use projects accommodate a variety of uses, including

1 residential and commercial, and usually at higher densities that promote pedestrian-friendly,  
2 sustainable communities. The Legislature recognizes that mixed-use, high-density development  
3 improves the quality of life for residents and businesses in urban areas. The Legislature finds  
4 that mixed-use, high-density redevelopment and infill, when accompanied by dedicated  
5 investment in appropriate public infrastructure and public transportation development and  
6 operations, benefits residents by creating opportunities for more a livable communities  
7 ~~community~~ with alternative modes of transportation. Furthermore, the Legislature finds that  
8 local zoning ordinances often discourage mixed-use, high-density development in areas that are  
9 appropriate for urban infill and redevelopment. The Legislature intends to discourage single-use  
10 zoning in urban areas which often leads to lower-density, land-intensive development outside an  
11 urban service area. Therefore, the Department of Community Affairs shall provide technical  
12 assistance to local governments in order to encourage mixed-use, high-density urban infill and  
13 redevelopment projects.

14 (f) The Legislature finds that a program for the transfer of development rights is a useful tool to  
15 preserve historic buildings and create public open spaces in urban areas. A program for the  
16 transfer of development rights allows the transfer of density credits from historic properties and  
17 public open spaces to areas designated for high-density development. The Legislature  
18 recognizes that high-density development is integral to the success of many urban infill and  
19 redevelopment projects. The Legislature intends to encourage high-density urban infill and  
20 redevelopment while preserving historic structures and open spaces. Therefore, the Department  
21 of Community Affairs shall provide technical assistance to local governments in order to  
22 promote the transfer of development rights within urban areas for high-density infill and  
23 redevelopment projects.

1 (g) The implementation of this subsection shall be subject to the provisions of this chapter,  
2 chapters 186 and 187, and applicable agency rules.

3 (h) The department may adopt rules necessary to implement the provisions of this subsection.

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

9 (a) The state land planning agency may provide a waiver to a county and to the municipalities  
10 within the county if the capacity rate for all schools within the school district is no greater than  
11 100 percent and the projected 5-year capital outlay full-time equivalent student growth rate is  
12 less than 10 percent. The state land planning agency may allow for a single school to exceed the  
13 100-percent limitation if it can be demonstrated that the capacity rate for that single school is not  
14 greater than 105 percent. In making this determination, the state land planning agency shall  
15 consider the following criteria:

- 16 1. Whether the exceedance is due to temporary circumstances;
- 17 2. Whether the projected 5-year capital outlay full time equivalent student growth rate for the  
18 school district is approaching the 10-percent threshold;
- 19 3. Whether one or more additional schools within the school district are at or approaching the  
20 100-percent threshold; and
- 21 4. The adequacy of the data and analysis submitted to support the waiver request.

22 (b) A municipality in a nonexempt county is exempt if the municipality meets all of the  
23 following criteria for having no significant impact on school attendance:

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

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

6 3. The municipality has no public schools located within its boundaries.

7 (c) A public school facilities element shall be based upon data and analyses that address, among  
8 other items, how level-of-service standards will be achieved and maintained. Such data and  
9 analyses must include, at a minimum, such items as: the interlocal agreement adopted pursuant to  
10 s. 163.31777 and the 5-year school district facilities work program adopted pursuant to s.

11 1013.35; the educational plant survey prepared pursuant to s. 1013.31 and an existing  
12 educational and ancillary plant map or map series; information on existing development and  
13 development anticipated for the next 5 years and the long-term planning period; an analysis of  
14 problems and opportunities for existing schools and schools anticipated in the future; an analysis  
15 of opportunities to collocate future schools with other public facilities such as parks, libraries,  
16 and community centers; an analysis of the need for supporting public facilities for existing and  
17 future schools; an analysis of opportunities to locate schools to serve as community focal points;  
18 projected future population and associated demographics, including development patterns year  
19 by year for the upcoming 5-year and long-term planning periods; and anticipated educational and  
20 ancillary plants with land area requirements.

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

- 1 (e) The element shall contain one or more objectives for each goal, setting specific, measurable,  
2 intermediate ends that are achievable and mark progress toward the goal.
- 3 (f) The element shall contain one or more policies for each objective which establish the way in  
4 which programs and activities will be conducted to achieve an identified goal.
- 5 (g) The objectives and policies shall address items such as:
- 6 1. The procedure for an annual update process;
  - 7 2. The procedure for school site selection;
  - 8 3. The procedure for school permitting;
  - 9 4. Provision for infrastructure necessary to support proposed schools, including potable water,  
10 wastewater, drainage, solid waste, transportation, and means by which to assure safe access to  
11 schools, including sidewalks, bicycle paths, turn lanes, and signalization;
  - 12 5. Provision for colocation of other public facilities, such as parks, libraries, and community  
13 centers, in proximity to public schools;
  - 14 6. Provision for location of schools proximate to residential areas and to complement patterns of  
15 development, including the location of future school sites so they serve as community focal  
16 points;
  - 17 7. Measures to ensure compatibility of school sites and surrounding land uses;
  - 18 8. Coordination with adjacent local governments and the school district on emergency  
19 preparedness issues, including the use of public schools to serve as emergency shelters; and
  - 20 9. Coordination with the future land use element.
- 21 (h) The element shall include one or more future conditions maps which depict the anticipated  
22 location of educational and ancillary plants, including the general location of improvements to  
23 existing schools or new schools anticipated over the 5-year or long-term planning period. The

1 maps will of necessity be general for the long-term planning period and more specific for the 5-  
2 year period. Maps indicating general locations of future schools or school improvements may  
3 not prescribe a land use on a particular parcel of land.

4 (i) The state land planning agency shall establish a phased schedule for adoption of the public  
5 school facilities element and the required updates to the public schools interlocal agreement  
6 pursuant to s. 163.31777. The schedule shall provide for each county and local government  
7 within the county to adopt the element and update to the agreement no later than December 1,  
8 2008. Plan amendments to adopt a public school facilities element are exempt from the  
9 provisions of s. 163.3187(1).

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

16 (k) The state land planning agency may issue the school board a notice to show cause why  
17 sanctions should not be enforced for failure to enter into an approved interlocal agreement as  
18 required by s. 163.31777 or for failure to implement the provisions of this act relating to public  
19 school concurrency. The school board may be subject to sanctions imposed by the  
20 Administration Commission directing the Department of Education to withhold from the district  
21 school board an equivalent amount of funds for school construction available pursuant to ss.  
22 1013.65, 1013.68, 1013.70, and 1013.72.

1 (13) Local governments are encouraged to develop a community vision that provides for  
2 sustainable growth, recognizes its fiscal constraints, and protects its natural resources. At the  
3 request of a local government, the applicable regional planning council shall provide assistance  
4 in the development of a community vision.

5 (a) As part of the process of developing a community vision under this section, the local  
6 government must hold two public meetings with at least one of those meetings before the local  
7 planning agency. Before those public meetings, the local government must hold at least one  
8 public workshop with stakeholder groups such as neighborhood associations, community  
9 organizations, businesses, private property owners, housing and development interests, and  
10 environmental organizations.

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

13 1. Future growth in the area using population forecasts from the Bureau of Economic and  
14 Business Research;

15 2. Priorities for economic development;

16 3. Preservation of open space, environmentally sensitive lands, and agricultural lands;

17 4. Appropriate areas and standards for mixed-use development;

18 5. Appropriate areas and standards for high-density commercial and residential development;

19 6. Appropriate areas and standards for economic development opportunities and employment  
20 centers;

21 7. Provisions for adequate workforce housing;

22 8. An efficient, interconnected multimodal transportation system; and

1 9. Opportunities to create land use patterns that accommodate the issues listed in subparagraphs  
2 1.-8.

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

5 1. Strategies to preserve open space and environmentally sensitive lands, and to encourage a  
6 healthy agricultural economy, including innovative planning and development strategies, such as  
7 the transfer of development rights;

8 2. Incentives for mixed-use development, including increased height and intensity standards for  
9 buildings that provide residential use in combination with office or commercial space;

10 3. Incentives for workforce housing;

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

12 5. Strategies to provide mobility within the community and to protect the Strategic Intermodal  
13 System, including the development of a transportation corridor management plan under s.  
14 337.273.

15 (d) The community vision must reflect the community's shared concept for growth and  
16 development of the community, including visual representations depicting the desired land use  
17 patterns and character of the community during a 10-year planning timeframe. The community  
18 vision must also take into consideration economic viability of the vision and private property  
19 interests.

20 (e) After the workshops and public meetings required under paragraph (a) are held, the local  
21 government may amend its comprehensive plan to include the community vision as a component  
22 in the plan. This plan amendment must be transmitted and adopted pursuant to the procedures in

1 ss. 163.3184 and 163.3189 at public hearings of the governing body other than those identified in  
2 paragraph (a).

3 (f) Amendments submitted under this subsection are exempt from the limitation on the  
4 frequency of plan amendments in s. 163.3187.

5 (g) A local government that has developed a community vision or completed a visioning process  
6 after July 1, 2000, and before July 1, 2005, which substantially accomplishes the goals set forth  
7 in this subsection and the appropriate goals, policies, or objectives have been adopted as part of  
8 the comprehensive plan or reflected in subsequently adopted land development regulations and  
9 the plan amendment incorporating the community vision as a component has been found in  
10 compliance is eligible for the incentives in s. 163.3184(17).

11 (h) A community vision element according to ss. 163.3167(11) or 163.3177(13) shall be  
12 compatible with and further the adopted regional vision contained in the applicable strategic  
13 regional policy plan.

14 (14) Local governments are also encouraged to designate an urban service boundary. This area  
15 must be appropriate for compact, contiguous urban development within a 10-year planning  
16 timeframe. The urban service area boundary must be identified on the future land use map or  
17 map series. The local government shall demonstrate that the land included within the urban  
18 service boundary is served or is planned to be served with adequate public facilities and services  
19 based on the local government's adopted level-of-service standards by adopting a 10-year  
20 facilities plan in the capital improvements element which is financially feasible. The local  
21 government shall demonstrate that the amount of land within the urban service boundary does  
22 not exceed the amount of land needed to accommodate the projected population growth at  
23 densities consistent with the adopted comprehensive plan within the 10-year planning timeframe.

1 (a) As part of the process of establishing an urban service boundary, the local government must  
2 hold two public meetings with at least one of those meetings before the local planning agency.  
3 Before those public meetings, the local government must hold at least one public workshop with  
4 stakeholder groups such as neighborhood associations, community organizations, businesses,  
5 private property owners, housing and development interests, and environmental organizations.

6 (b)1. After the workshops and public meetings required under paragraph (a) are held, the local  
7 government may amend its comprehensive plan to include the urban service boundary. This plan  
8 amendment must be transmitted and adopted pursuant to the procedures in ss. 163.3184 and  
9 163.3189 at meetings of the governing body other than those required under paragraph (a).

10 2. This subsection does not prohibit new development outside an urban service boundary.  
11 However, a local government that establishes an urban service boundary under this subsection is  
12 encouraged to require a full-cost-accounting analysis for any new development outside the  
13 boundary and to consider the results of that analysis on existing urban infill and redevelopment  
14 programs and initiatives when adopting a plan amendment for property outside the established  
15 urban service boundary.

16 (c) Amendments submitted under this subsection are exempt from the limitation on the  
17 frequency of plan amendments in s. 163.3187.

18 (d) A local government that has adopted an urban service boundary before July 1, 2005, which  
19 substantially accomplishes the goals set forth in this subsection is not required to comply with  
20 paragraph (a) or subparagraph 1. of paragraph (b) in order to be eligible for the incentives under  
21 s. 163.3184(17). In order to satisfy the provisions of this paragraph, the local government must  
22 secure a determination from the state land planning agency that the urban service boundary  
23 adopted before July 1, 2005, substantially complies with the criteria of this subsection, based on

1 data and analysis submitted by the local government to support this determination. The  
2 determination by the state land planning agency is not subject to administrative challenge.

3

4 **Section 2.**

5 **163.3184 Process for adoption of comprehensive plan or plan amendment.--**

6 (1) DEFINITIONS.--As used in this section, the term:

7 (a) "Affected person" includes the affected local government; persons owning property,  
8 residing, or owning or operating a business within the boundaries of the local government whose  
9 plan is the subject of the review; owners of real property abutting real property that is the subject  
10 of a proposed change to a future land use map; and adjoining local governments that can  
11 demonstrate that the plan or plan amendment will produce substantial impacts on the increased  
12 need for publicly funded infrastructure or substantial impacts on areas designated for protection  
13 or special treatment within their jurisdiction. Each person, other than an adjoining local  
14 government, in order to qualify under this definition, shall also have submitted oral or written  
15 comments, recommendations, or objections to the local government during the period of time  
16 beginning with the transmittal hearing for the plan or plan amendment and ending with the  
17 adoption of the plan or plan amendment.

18 (b) "In compliance" means consistent with the requirements of ss. 163.3177, when a local  
19 government adopts an educational facilities element, 163.3178, 163.3180, 163.3191, and  
20 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan,  
21 and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this  
22 part and with the principles for guiding development in designated areas of critical state concern  
23 and with part III of chapter 369, where applicable.

1 (2) COORDINATION.--Each comprehensive plan or plan amendment proposed to be adopted  
2 pursuant to this part shall be transmitted, adopted, and reviewed in the manner prescribed in this  
3 section. Upon acceptance of an application for a future land use map amendment or urban  
4 development boundary change, each local government shall notify the regional planning council  
5 as to the location, acreage, proposed change, and date of any scheduled public meetings. The  
6 state land planning agency shall have responsibility for plan review, coordination, and the  
7 preparation and transmission of comments, pursuant to this section, to the local governing body  
8 responsible for the comprehensive plan. The state land planning agency shall maintain a single  
9 file concerning any proposed or adopted plan amendment submitted by a local government for  
10 any review under this section. Copies of all correspondence, papers, notes, memoranda, and  
11 other documents received or generated by the state land planning agency must be placed in the  
12 appropriate file. Paper copies of all electronic mail correspondence must be placed in the file.  
13 The file and its contents must be available for public inspection and copying as provided in  
14 chapter 119.

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

16 (a) Each local governing body shall transmit the complete proposed comprehensive plan or plan  
17 amendment, including an analysis of cumulative impacts for all amendments within the planning  
18 timeframe to the state land planning agency, the appropriate regional planning council and water  
19 management district, the Department of Environmental Protection, the Department of State, and  
20 the Department of Transportation, and, in the case of municipal plans, to the appropriate county,  
21 and, in the case of county plans, to the Fish and Wildlife Conservation Commission and the  
22 Department of Agriculture and Consumer Services, immediately following a public hearing  
23 pursuant to subsection (15) as specified in the state land planning agency's procedural rules. The

1 local governing body shall also transmit a copy of the complete proposed comprehensive plan or  
2 plan amendment to any other unit of local government or government agency in the state that has  
3 filed a written request with the governing body for the plan or plan amendment. The local  
4 government may request a review by the state land planning agency pursuant to subsection (6) at  
5 the time of the transmittal of an amendment.

6 (b) A local governing body shall not transmit portions of a plan or plan amendment unless it has  
7 previously provided to all state agencies designated by the state land planning agency a complete  
8 copy of its adopted comprehensive plan pursuant to subsection (7) and as specified in the  
9 agency's procedural rules. In the case of comprehensive plan amendments, the local governing  
10 body shall transmit to the state land planning agency, the appropriate regional planning council  
11 and water management district, the Department of Environmental Protection, the Department of  
12 State, and the Department of Transportation, and, in the case of municipal plans, to the  
13 appropriate county and, in the case of county plans, to the Fish and Wildlife Conservation  
14 Commission and the Department of Agriculture and Consumer Services the materials specified  
15 in the state land planning agency's procedural rules and, in cases in which the plan amendment is  
16 a result of an evaluation and appraisal report adopted pursuant to s. 163.3191, a copy of the  
17 evaluation and appraisal report. Local governing bodies shall consolidate all proposed plan  
18 amendments into a single submission for each of the two plan amendment adoption dates during  
19 the calendar year pursuant to s. 163.3187.

20 (c) A local government may adopt a proposed plan amendment previously transmitted pursuant  
21 to this subsection, unless review is requested or otherwise initiated pursuant to subsection (6).

22 (d) In cases in which a local government transmits multiple individual amendments that can be  
23 clearly and legally separated and distinguished for the purpose of determining whether to review

1 the proposed amendment, and the state land planning agency elects to review several or a portion  
2 of the amendments and the local government chooses to immediately adopt the remaining  
3 amendments not reviewed, the amendments immediately adopted and any reviewed amendments  
4 that the local government subsequently adopts together constitute one amendment cycle in  
5 accordance with s. 163.3187(1).

6 (4) INTERGOVERNMENTAL REVIEW.--The governmental agencies specified in paragraph  
7 (3)(a) shall provide comments to the state land planning agency within ~~30~~ 60 days after receipt  
8 by the state land planning agency of the complete proposed plan amendment. If the plan or plan  
9 amendment includes or relates to the public school facilities element pursuant to s. 163.3177(12),  
10 the state land planning agency shall submit a copy to the Office of Educational Facilities of the  
11 Commissioner of Education for review and comment. The appropriate regional planning council  
12 shall also provide its written comments to the state land planning agency within 30 days after  
13 receipt by the state land planning agency of the complete proposed plan amendment and shall  
14 specify any objections, recommendations for modifications, and comments of any other regional  
15 agencies to which the regional planning council may have referred the proposed plan  
16 amendment. Written comments submitted by the public within 30 days after notice of  
17 transmittal by the local government of the proposed plan amendment will be considered as if  
18 submitted by governmental agencies. All written agency and public comments must be made part  
19 of the file maintained under subsection (2).

20 (5) REGIONAL, COUNTY, AND MUNICIPAL REVIEW.--The review of the regional  
21 planning council pursuant to subsection (4) shall be limited to effects on regional resources or  
22 facilities identified in the strategic regional policy plan and extrajurisdictional impacts which  
23 would be inconsistent with the comprehensive plan of the affected local government. ~~However,~~

1 ~~any inconsistency between a local plan or plan amendment and a strategic regional policy plan~~  
2 ~~must not be the sole basis for a notice of intent to find a local plan or plan amendment not in~~  
3 ~~compliance with this act.~~ A regional planning council shall not review and comment on a  
4 proposed comprehensive plan it prepared itself unless the plan has been changed by the local  
5 government subsequent to the preparation of the plan by the regional planning agency. The  
6 review of the county land planning agency pursuant to subsection (4) shall be primarily in the  
7 context of the relationship and effect of the proposed plan amendment on any county  
8 comprehensive plan element. Any review by municipalities will be primarily in the context of  
9 the relationship and effect on the municipal plan.

10 (6) STATE LAND PLANNING AGENCY REVIEW.--

11 (a) The state land planning agency shall review a proposed plan amendment upon request of a  
12 regional planning council, affected person, or local government transmitting the plan  
13 amendment. The request from the regional planning council or affected person must be received  
14 within ~~30~~ 60 days after transmittal of the proposed plan amendment pursuant to subsection (3).  
15 A regional planning council or affected person requesting a review shall do so by submitting a  
16 written request to the agency with a notice of the request to the local government and any other  
17 person who has requested notice.

18 (b) The state land planning agency may review any proposed plan amendment regardless of  
19 whether a request for review has been made, if the agency gives notice to the local government,  
20 and any other person who has requested notice, of its intention to conduct such a review within  
21 35 days after receipt of the complete proposed plan amendment.

22 (c) The state land planning agency shall establish by rule a schedule for receipt of comments  
23 from the various government agencies, as well as written public comments, pursuant to

1 subsection (4). If the state land planning agency elects to review the amendment or the agency is  
2 required to review the amendment as specified in paragraph (a), the agency shall issue a report  
3 giving its objections, recommendations, and comments regarding the proposed amendment  
4 within ~~60~~ 75 days after receipt of the complete proposed amendment by the state land planning  
5 agency. When a federal, state, or regional agency has implemented a permitting program, the  
6 state land planning agency shall not require a local government to duplicate or exceed that  
7 permitting program in its comprehensive plan or to implement such a permitting program in its  
8 land development regulations. Nothing contained herein shall prohibit the state land planning  
9 agency in conducting its review of local plans or plan amendments from making objections,  
10 recommendations, and comments or making compliance determinations regarding densities and  
11 intensities consistent with the provisions of this part. In preparing its comments, the state land  
12 planning agency shall only base its considerations on written, and not oral, comments, from any  
13 source.

14 (d) The state land planning agency review shall identify all written communications with the  
15 agency regarding the proposed plan amendment. If the state land planning agency does not issue  
16 such a review, it shall identify in writing to the local government all written communications  
17 received ~~30~~ 60 days after transmittal. The written identification must include a list of all  
18 documents received or generated by the agency, which list must be of sufficient specificity to  
19 enable the documents to be identified and copies requested, if desired, and the name of the  
20 person to be contacted to request copies of any identified document. The list of documents must  
21 be made a part of the public records of the state land planning agency.

22 (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN OR  
23 AMENDMENTS AND TRANSMITTAL.--

1 (a) The local government shall review the written comments submitted to it by the state land  
2 planning agency, and any other person, agency, or government. Any comments,  
3 recommendations, or objections and any reply to them shall be public documents, a part of the  
4 permanent record in the matter, and admissible in any proceeding in which the comprehensive  
5 plan or plan amendment may be at issue. The local government, upon receipt of written  
6 comments from the state land planning agency, shall have 120 days to adopt or adopt with  
7 changes the proposed comprehensive plan or s. 163.3191 plan amendments. In the case of  
8 comprehensive plan amendments other than those proposed pursuant to s. 163.3191, the local  
9 government shall have 60 days to adopt the amendment, adopt the amendment with changes, or  
10 determine that it will not adopt the amendment. The adoption of the proposed plan or plan  
11 amendment or the determination not to adopt a plan amendment, other than a plan amendment  
12 proposed pursuant to s. 163.3191, shall be made in the course of a public hearing pursuant to  
13 subsection (15). The local government shall transmit the complete adopted comprehensive plan  
14 or plan amendment, including the names and addresses of persons compiled pursuant to  
15 paragraph (15)(c), to the state land planning agency as specified in the agency's procedural rules  
16 within 10 working days after adoption. The local governing body shall also transmit a copy of  
17 the adopted comprehensive plan or plan amendment to the regional planning agency and to any  
18 other unit of local government or governmental agency in the state that has filed a written request  
19 with the governing body for a copy of the plan or plan amendment.

20 (b) If the adopted plan amendment is unchanged from the proposed plan amendment transmitted  
21 pursuant to subsection (3) and an affected person as defined in paragraph (1)(a) did not raise any  
22 objection, the state land planning agency did not review the proposed plan amendment, and the  
23 state land planning agency did not raise any objections during its review pursuant to subsection

1 (6), the local government may state in the transmittal letter that the plan amendment is  
2 unchanged and was not the subject of objections.

3 (8) NOTICE OF INTENT.--

4 (a) If the transmittal letter correctly states that the plan amendment is unchanged and was not the  
5 subject of review or objections pursuant to paragraph (7)(b), the state land planning agency has  
6 20 days after receipt of the transmittal letter within which to issue a notice of intent that the plan  
7 amendment is in compliance.

8 (b) Except as provided in paragraph (a) or in s. 163.3187(3), the state land planning agency,  
9 upon receipt of a local government's complete adopted comprehensive plan or plan amendment,  
10 shall have 45 days for review and to determine if the plan or plan amendment is in compliance  
11 with this act, unless the amendment is the result of a compliance agreement entered into under  
12 subsection (16), in which case the time period for review and determination shall be 30 days. If  
13 review was not conducted under subsection (6), the agency's determination must be based upon  
14 the plan amendment as adopted. If review was conducted under subsection (6), the agency's  
15 determination of compliance must be based only upon one or both of the following:

16 1. The state land planning agency's written comments to the local government pursuant to  
17 subsection (6); or

18 2. Any changes made by the local government to the comprehensive plan or plan amendment as  
19 adopted.

20 (c)1. During the time period provided for in this subsection, the state land planning agency shall  
21 issue, through a senior administrator or the secretary, as specified in the agency's procedural  
22 rules, a notice of intent to find that the plan or plan amendment is in compliance or not in  
23 compliance. A notice of intent shall be issued by publication in the manner provided by this

1 paragraph and by mailing a copy to the local government. The advertisement shall be placed in  
2 that portion of the newspaper where legal notices appear. The advertisement shall be published  
3 in a newspaper that meets the size and circulation requirements set forth in paragraph (15)(e) and  
4 that has been designated in writing by the affected local government at the time of transmittal of  
5 the amendment. Publication by the state land planning agency of a notice of intent in the  
6 newspaper designated by the local government shall be prima facie evidence of compliance with  
7 the publication requirements of this section. The state land planning agency shall post a copy of  
8 the notice of intent on the agency's Internet site. The agency shall, no later than the date the  
9 notice of intent is transmitted to the newspaper, send by regular mail a courtesy informational  
10 statement to persons who provide their names and addresses to the local government at the  
11 transmittal hearing or at the adoption hearing where the local government has provided the  
12 names and addresses of such persons to the department at the time of transmittal of the adopted  
13 amendment. The informational statements shall include the name of the newspaper in which the  
14 notice of intent will appear, the approximate date of publication, the ordinance number of the  
15 plan or plan amendment, and a statement that affected persons have 21 days after the actual date  
16 of publication of the notice to file a petition.

17 2. A local government that has an Internet site shall post a copy of the state land planning  
18 agency's notice of intent on the site within 5 days after receipt of the mailed copy of the agency's  
19 notice of intent.

20 (9) PROCESS IF LOCAL PLAN OR AMENDMENT IS IN COMPLIANCE.--

21 (a) If the state land planning agency issues a notice of intent to find that the comprehensive plan  
22 or plan amendment transmitted pursuant to s. 163.3167, s. 163.3187, s. 163.3189, or s. 163.3191  
23 is in compliance with this act, any affected person may file a petition with the agency pursuant to

1 ss. 120.569 and 120.57 within 21 days after the publication of notice. In this proceeding, the  
2 local plan or plan amendment shall be determined to be in compliance if the local government's  
3 determination of compliance is fairly debatable.

4 (b) The hearing shall be conducted by an administrative law judge of the Division of  
5 Administrative Hearings of the Department of Management Services, who shall hold the hearing  
6 in the county of and convenient to the affected local jurisdiction and submit a recommended  
7 order to the state land planning agency. The state land planning agency shall allow for the filing  
8 of exceptions to the recommended order and shall issue a final order after receipt of the  
9 recommended order if the state land planning agency determines that the plan or plan  
10 amendment is in compliance. If the state land planning agency determines that the plan or plan  
11 amendment is not in compliance, the agency shall submit the recommended order to the  
12 Administration Commission for final agency action.

13 (10) PROCESS IF LOCAL PLAN OR AMENDMENT IS NOT IN COMPLIANCE.--

14 (a) If the state land planning agency issues a notice of intent to find the comprehensive plan or  
15 plan amendment not in compliance with this act, the notice of intent shall be forwarded to the  
16 Division of Administrative Hearings of the Department of Management Services, which shall  
17 conduct a proceeding under ss. 120.569 and 120.57 in the county of and convenient to the  
18 affected local jurisdiction. The parties to the proceeding shall be the state land planning agency,  
19 the affected local government, and any affected person who intervenes. No new issue may be  
20 alleged as a reason to find a plan or plan amendment not in compliance in an administrative  
21 pleading filed more than 21 days after publication of notice unless the party seeking that issue  
22 establishes good cause for not alleging the issue within that time period. Good cause shall not  
23 include excusable neglect. In the proceeding, the local government's determination that the

1 comprehensive plan or plan amendment is in compliance is presumed to be correct. The local  
2 government's determination shall be sustained unless it is shown by a preponderance of the  
3 evidence that the comprehensive plan or plan amendment is not in compliance. The local  
4 government's determination that elements of its plans are related to and consistent with each  
5 other shall be sustained if the determination is fairly debatable.

6 (b) The administrative law judge assigned by the division shall submit a recommended order to  
7 the Administration Commission for final agency action.

8 (c) Prior to the hearing, the state land planning agency shall afford an opportunity to mediate or  
9 otherwise resolve the dispute. If a party to the proceeding requests mediation or other alternative  
10 dispute resolution, the hearing may not be held until the state land planning agency advises the  
11 administrative law judge in writing of the results of the mediation or other alternative dispute  
12 resolution. However, the hearing may not be delayed for longer than 90 days for mediation or  
13 other alternative dispute resolution unless a longer delay is agreed to by the parties to the  
14 proceeding. The costs of the mediation or other alternative dispute resolution shall be borne  
15 equally by all of the parties to the proceeding.

16 (11) ADMINISTRATION COMMISSION.--

17 (a) If the Administration Commission, upon a hearing pursuant to subsection (9) or subsection  
18 (10), finds that the comprehensive plan or plan amendment is not in compliance with this act, the  
19 commission shall specify remedial actions which would bring the comprehensive plan or plan  
20 amendment into compliance. The commission may direct state agencies not to provide funds to  
21 increase the capacity of roads, bridges, or water and sewer systems within the boundaries of  
22 those local governmental entities which have comprehensive plans or plan elements that are

1 determined not to be in compliance. The commission order may also specify that the local  
2 government shall not be eligible for grants administered under the following programs:

- 3 1. The Florida Small Cities Community Development Block Grant Program, as authorized by ss.  
4 290.0401-290.049.
- 5 2. The Florida Recreation Development Assistance Program, as authorized by chapter 375.
- 6 3. Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, to the extent not  
7 pledged to pay back bonds.

8 (b) If the local government is one which is required to include a coastal management element in  
9 its comprehensive plan pursuant to s. 163.3177(6)(g), the commission order may also specify  
10 that the local government is not eligible for funding pursuant to s. 161.091. The commission  
11 order may also specify that the fact that the coastal management element has been determined to  
12 be not in compliance shall be a consideration when the department considers permits under s.  
13 161.053 and when the Board of Trustees of the Internal Improvement Trust Fund considers  
14 whether to sell, convey any interest in, or lease any sovereignty lands or submerged lands until  
15 the element is brought into compliance.

16 (c) The sanctions provided by paragraphs (a) and (b) shall not apply to a local government  
17 regarding any plan amendment, except for plan amendments that amend plans that have not been  
18 finally determined to be in compliance with this part, and except as provided in s. 163.3189(2) or  
19 s. 163.3191(11).

20 (12) GOOD FAITH FILING.--The signature of an attorney or party constitutes a certificate that  
21 he or she has read the pleading, motion, or other paper and that, to the best of his or her  
22 knowledge, information, and belief formed after reasonable inquiry, it is not interposed for any  
23 improper purpose, such as to harass or to cause unnecessary delay, or for economic advantage,

1 competitive reasons, or frivolous purposes or needless increase in the cost of litigation. If a  
2 pleading, motion, or other paper is signed in violation of these requirements, the administrative  
3 law judge, upon motion or his or her own initiative, shall impose upon the person who signed it,  
4 a represented party, or both, an appropriate sanction, which may include an order to pay to the  
5 other party or parties the amount of reasonable expenses incurred because of the filing of the  
6 pleading, motion, or other paper, including a reasonable attorney's fee.

7 (13) EXCLUSIVE PROCEEDINGS.--The proceedings under this section shall be the sole  
8 proceeding or action for a determination of whether a local government's plan, element, or  
9 amendment is in compliance with this act.

10 (14) AREAS OF CRITICAL STATE CONCERN.--No proposed local government  
11 comprehensive plan or plan amendment which is applicable to a designated area of critical state  
12 concern shall be effective until a final order is issued finding the plan or amendment to be in  
13 compliance as defined in this section.

14 (15) PUBLIC HEARINGS.--

15 (a) The procedure for transmittal of a complete proposed comprehensive plan or plan  
16 amendment pursuant to subsection (3) and for adoption of a comprehensive plan or plan  
17 amendment pursuant to subsection (7) shall be by affirmative vote of not less than a majority of  
18 the members of the governing body present at the hearing. The adoption of a comprehensive  
19 plan or plan amendment shall be by ordinance. For the purposes of transmitting or adopting a  
20 comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are  
21 superseded by this subsection, except as provided in this part.

22 (b) The local governing body shall hold at least two advertised public hearings on the proposed  
23 comprehensive plan or plan amendment as follows:

1 1. The first public hearing shall be held at the transmittal stage pursuant to subsection (3). It  
2 shall be held on a weekday at least 7 days after the day that the first advertisement is published.

3 2. The second public hearing shall be held at the adoption stage pursuant to subsection (7). It  
4 shall be held on a weekday at least 5 days after the day that the second advertisement is  
5 published.

6 (c) The local government shall provide a sign-in form at the transmittal hearing and at the  
7 adoption hearing for persons to provide their names and mailing addresses. The sign-in form  
8 must advise that any person providing the requested information will receive a courtesy  
9 informational statement concerning publications of the state land planning agency's notice of  
10 intent. The local government shall add to the sign-in form the name and address of any person  
11 who submits written comments concerning the proposed plan or plan amendment during the time  
12 period between the commencement of the transmittal hearing and the end of the adoption  
13 hearing. It is the responsibility of the person completing the form or providing written comments  
14 to accurately, completely, and legibly provide all information needed in order to receive the  
15 courtesy informational statement.

16 (d) The agency shall provide a model sign-in form for providing the list to the agency which  
17 may be used by the local government to satisfy the requirements of this subsection.

18 (e) If the proposed comprehensive plan or plan amendment changes the actual list of permitted,  
19 conditional, or prohibited uses within a future land use category or changes the actual future land  
20 use map designation of a parcel or parcels of land, the required advertisements shall be in the  
21 format prescribed by s. 125.66(4)(b)2. for a county or by s. 166.041(3)(c)2.b. for a municipality.

22 (16) COMPLIANCE AGREEMENTS.--

1 (a) At any time following the issuance of a notice of intent to find a comprehensive plan or plan  
2 amendment not in compliance with this part or after the initiation of a hearing pursuant to  
3 subsection (9), the state land planning agency and the local government may voluntarily enter  
4 into a compliance agreement to resolve one or more of the issues raised in the proceedings.  
5 Affected persons who have initiated a formal proceeding or have intervened in a formal  
6 proceeding may also enter into the compliance agreement. All parties granted intervenor status  
7 shall be provided reasonable notice of the commencement of a compliance agreement  
8 negotiation process and a reasonable opportunity to participate in such negotiation process.  
9 Negotiation meetings with local governments or intervenors shall be open to the public. The  
10 state land planning agency shall provide each party granted intervenor status with a copy of the  
11 compliance agreement within 10 days after the agreement is executed. The compliance  
12 agreement shall list each portion of the plan or plan amendment which is not in compliance, and  
13 shall specify remedial actions which the local government must complete within a specified time  
14 in order to bring the plan or plan amendment into compliance, including adoption of all  
15 necessary plan amendments. The compliance agreement may also establish monitoring  
16 requirements and incentives to ensure that the conditions of the compliance agreement are met.

17 (b) Upon filing by the state land planning agency of a compliance agreement executed by the  
18 agency and the local government with the Division of Administrative Hearings, any  
19 administrative proceeding under ss. 120.569 and 120.57 regarding the plan or plan amendment  
20 covered by the compliance agreement shall be stayed.

21 (c) Prior to its execution of a compliance agreement, the local government must approve the  
22 compliance agreement at a public hearing advertised at least 10 days before the public hearing in

1 a newspaper of general circulation in the area in accordance with the advertisement requirements  
2 of subsection (15).

3 (d) A local government may adopt a plan amendment pursuant to a compliance agreement in  
4 accordance with the requirements of paragraph (15)(a). The plan amendment shall be exempt  
5 from the requirements of subsections (2)-(7). The local government shall hold a single adoption  
6 public hearing pursuant to the requirements of subparagraph (15)(b)2. and paragraph (15)(e).

7 Within 10 working days after adoption of a plan amendment, the local government shall transmit  
8 the amendment to the state land planning agency as specified in the agency's procedural rules,  
9 and shall submit one copy to the regional planning agency and to any other unit of local  
10 government or government agency in the state that has filed a written request with the governing  
11 body for a copy of the plan amendment, and one copy to any party to the proceeding under ss.  
12 120.569 and 120.57 granted intervenor status.

13 (e) The state land planning agency, upon receipt of a plan amendment adopted pursuant to a  
14 compliance agreement, shall issue a cumulative notice of intent addressing both the compliance  
15 agreement amendment and the plan or plan amendment that was the subject of the agreement, in  
16 accordance with subsection (8).

17 (f)1. If the local government adopts a comprehensive plan amendment pursuant to a compliance  
18 agreement and a notice of intent to find the plan amendment in compliance is issued, the state  
19 land planning agency shall forward the notice of intent to the Division of Administrative  
20 Hearings and the administrative law judge shall realign the parties in the pending proceeding  
21 under ss. 120.569 and 120.57, which shall thereafter be governed by the process contained in  
22 paragraphs (9)(a) and (b), including provisions relating to challenges by an affected person,  
23 burden of proof, and issues of a recommended order and a final order, except as provided in

1 subparagraph 2. Parties to the original proceeding at the time of realignment may continue as  
2 parties without being required to file additional pleadings to initiate a proceeding, but may timely  
3 amend their pleadings to raise any challenge to the amendment which is the subject of the  
4 cumulative notice of intent, and must otherwise conform to the rules of procedure of the Division  
5 of Administrative Hearings. Any affected person not a party to the realigned proceeding may  
6 challenge the plan amendment which is the subject of the cumulative notice of intent by filing a  
7 petition with the agency as provided in subsection (9). The agency shall forward the petition  
8 filed by the affected person not a party to the realigned proceeding to the Division of  
9 Administrative Hearings for consolidation with the realigned proceeding.

10 2. If any of the issues raised by the state land planning agency in the original subsection (10)  
11 proceeding are not resolved by the compliance agreement amendments, any intervenor in the  
12 original subsection (10) proceeding may require those issues to be addressed in the pending  
13 consolidated realigned proceeding under ss. 120.569 and 120.57. As to those unresolved issues,  
14 the burden of proof shall be governed by subsection (10).

15 3. If the local government adopts a comprehensive plan amendment pursuant to a compliance  
16 agreement and a notice of intent to find the plan amendment not in compliance is issued, the state  
17 land planning agency shall forward the notice of intent to the Division of Administrative  
18 Hearings, which shall consolidate the proceeding with the pending proceeding and immediately  
19 set a date for hearing in the pending proceeding under ss. 120.569 and 120.57. Affected persons  
20 who are not a party to the underlying proceeding under ss. 120.569 and 120.57 may challenge  
21 the plan amendment adopted pursuant to the compliance agreement by filing a petition pursuant  
22 to subsection (10).

1 (g) If the local government fails to adopt a comprehensive plan amendment pursuant to a  
2 compliance agreement, the state land planning agency shall notify the Division of Administrative  
3 Hearings, which shall set the hearing in the pending proceeding under ss. 120.569 and 120.57 at  
4 the earliest convenient time.

5 (h) This subsection does not prohibit a local government from amending portions of its  
6 comprehensive plan other than those which are the subject of the compliance agreement.  
7 However, such amendments to the plan may not be inconsistent with the compliance agreement.

8 (i) Nothing in this subsection is intended to limit the parties from entering into a compliance  
9 agreement at any time before the final order in the proceeding is issued, provided that the  
10 provisions of paragraph (c) shall apply regardless of when the compliance agreement is reached.

11 (j) Nothing in this subsection is intended to force any party into settlement against its will or to  
12 preclude the use of other informal dispute resolution methods, such as the services offered by the  
13 Florida Growth Management Dispute Resolution Consortium, in the course of or in addition to  
14 the method described in this subsection.

15 (17) COMMUNITY VISION AND URBAN BOUNDARY PLAN AMENDMENTS.--A local  
16 government that has adopted a community vision and urban service boundary under s.  
17 163.3177(13) and (14) may adopt a plan amendment related to map amendments solely to  
18 property within an urban service boundary in the manner described in subsections (1), (2), (7),  
19 (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional  
20 agency review is eliminated. The department may not issue an objections, recommendations, and  
21 comments report on proposed plan amendments or a notice of intent on adopted plan  
22 amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for  
23 administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge the

1 compliance of an adopted plan amendment. This subsection does not apply to any amendment  
2 within an area of critical state concern, to any amendment that increases residential densities  
3 allowable in coastal high-hazard ~~coastal~~ areas as defined in s. 163.3178(2)(h), or to a text change  
4 to the goals, policies, or objectives of the local government's comprehensive plan. Amendments  
5 submitted under this subsection are exempt from the limitation on the frequency of plan  
6 amendments in s. 163.3187.

7 (18) URBAN INFILL AND REDEVELOPMENT PLAN AMENDMENTS.--A municipality  
8 that has a designated a multi-modal transportation district or an urban infill and redevelopment  
9 area under s. 163.2517 may adopt a plan amendment related to map amendments solely to  
10 property within a designated urban infill and redevelopment area in the manner described in  
11 subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that  
12 state and regional agency review is eliminated. The department may not issue an objections,  
13 recommendations, and comments report on proposed plan amendments or a notice of intent on  
14 adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a  
15 petition for administrative review pursuant to the requirements of s. 163.3187(3)(a) to challenge  
16 the compliance of an adopted plan amendment. This subsection does not apply to any  
17 amendment within an area of critical state concern, to any amendment that increases residential  
18 densities allowable in coastal high-hazard ~~coastal~~ areas as defined in s. 163.3178(2)(h), or to a  
19 text change to the goals, policies, or objectives of the local government's comprehensive plan.  
20 Amendments submitted under this subsection are exempt from the limitation on the frequency of  
21 plan amendments in s. 163.3187.

22 (19) HOUSING INCENTIVE STRATEGY PLAN AMENDMENTS.--Any local government  
23 that identifies in its comprehensive plan the types of housing developments and conditions for

1 which it will consider plan amendments that are consistent with the local housing incentive  
2 strategies identified in s. 420.9076 and authorized by the local government may expedite  
3 consideration of such plan amendments. At least 30 days prior to adopting a plan amendment  
4 pursuant to this subsection, the local government shall notify the state land planning agency of its  
5 intent to adopt such an amendment, and the notice shall include the local government's  
6 evaluation of site suitability and availability of facilities and services. A plan amendment  
7 considered under this subsection shall require only a single public hearing before the local  
8 governing body, which shall be a plan amendment adoption hearing as described in subsection  
9 (7). The public notice of the hearing required under subparagraph (15)(b)2. must include a  
10 statement that the local government intends to use the expedited adoption process authorized  
11 under this subsection. The state land planning agency shall issue its notice of intent required  
12 under subsection (8) within 30 days after determining that the amendment package is complete.  
13 Any further proceedings shall be governed by subsections (9)-(16).

14

15 Section 3.

16 **186.507 Strategic regional policy plans.--**

17 (1) Each regional planning council shall prepare and adopt a strategic regional policy plan that  
18 may be based on and contain a future of the region element establishing a regional vision for the  
19 future physical appearance and qualities of the region and its communities.

20 (a) A regional vision shall be developed through a collaborative planning process with public  
21 participation. Neighboring regions, especially those sharing natural resources or physical or  
22 economic infrastructure, are encouraged to create collective visions for their planning areas. All  
23 appropriate state agencies and water management districts, metropolitan planning organizations,

1 and regional transportation authorities shall support and participate in the creation of a regional  
2 vision of the future. When the regional vision of the future has been created, the regional  
3 planning council shall revise its strategic regional policy plan to include the vision and ensure  
4 that all goals, strategies and policies contained in other elements of the plan will help to move the  
5 region toward its vision in a manner consistent with this act and with the state comprehensive  
6 plan. Strategic plans and investment strategies of state agencies, water management districts,  
7 metropolitan planning organizations, and regional transportation authorities must be consistent  
8 with, and support implementation of, the regional vision.

9 (b) As part of the process of developing a regional vision under this section, the regional  
10 planning council shall, at a minimum, hold at least three public meetings. Before such public  
11 meetings, the regional planning council shall hold at least one stakeholder workshop to  
12 encourage and receive input from groups including, but not necessarily limited to, local  
13 governments; the Florida Department of Transportation; the Florida Department of  
14 Environmental Protection; the appropriate Water Management District(s); District Health  
15 Council offices; metropolitan planning organizations; regional transportation authorities;  
16 economic development agencies; neighborhood associations; community organizations;  
17 businesses; private property owners, housing and development interests; and environmental  
18 organizations.

19 (c) As part of the workshops and public meetings required under paragraph (b), the regional  
20 planning council shall determine and discuss the issues appropriate to the region, and shall  
21 identify or develop strategies appropriate to address such issues. Such topics may include, as  
22 appropriate, but are not necessarily limited to:

- 1 1. Future growth in the region using population forecasts from the Bureau of Economic  
2 and Business Research;
- 3 2. The conservation of water resources and development of alternative water supplies as  
4 established by the appropriate water management district(s) and the applicable water supply  
5 plans;
- 6 3. Provision of public infrastructure including, but not limited to, water, sewer, and  
7 stormwater; public transportation; schools; energy generation and distribution; and parks and  
8 open spaces;
- 9 4. Priorities for economic development, including strengthening and diversifying the  
10 economy;
- 11 5. Redevelopment of existing towns, cities, villages and urban transportation corridors;
- 12 6. Areas and standards for mixed-use neighborhoods and districts;
- 13 7. Providing increased mobility within the community and the region, including an  
14 efficient, interconnected multimodal transportation system that will improve local and regional  
15 connectivity and provided additional transportation options;
- 16 8. Encouraging patterns of development and programs reducing vehicle miles traveled,  
17 and encouraging and accommodating public transit;
- 18 9. Areas and standards for transit-oriented development, in consultation with the  
19 appropriate local governments, regional planning council, transit agencies, metropolitan planning  
20 organizations, regional transportation authority, and district of the Department of Transportation;
- 21 10. Creating and implementing multi-modal transportation districts in urban areas;
- 22 11. Regional transportation concurrency systems;
- 23 12. Areas and standards for new towns, cities and villages;

1 13. Provisions for affordable and workforce housing;  
2 14. The region’s vulnerability to fuel price increases, energy supply interruptions,  
3 climate change and sea level rise;  
4 15. Preservation of open space and environmentally sensitive lands and waters, and  
5 encouraging a healthy agricultural economy, including innovative planning and development  
6 strategies, such as the transfer of development rights, as appropriate;  
7 16. Provision of mixed-use development and redevelopment that provide residential use  
8 in combination with office or commercial space, where appropriate to the context of the  
9 community;  
10 17. Self-contained, walkable, transit-ready neighborhoods and mixed-use districts that  
11 connect all the important components of public and private life such as sites for homes,  
12 shopping, parks, jobs, schools, worship, healthcare, civic use, and the countryside;  
13 18 Mitigating potential loss of life and property damage from natural and technological  
14 hazards; and  
15 19. Opportunities to create land use patterns that accommodate the issues listed in  
16 subparagraphs 1-19.  
17 (d) The regional vision shall, at a minimum, address the topics contained in section  
18 185.507(1)(c) to the extent applicable as determined by the regional planning council. The  
19 regional vision should reflect a shared concept for growth and development of the region. The  
20 regional vision shall include a visual representation or representations depicting the desired land  
21 use patterns and character of the region to include a planning timeframe through 2060 and also  
22 shall take into consideration economic viability of the vision.

1 (e) The strategic regional policy plan shall include strategies for implementing the regional  
2 vision as determined by the regional planning council. Amended strategic regional policy plans  
3 which include a regional vision shall also include an assessment of the long-term local  
4 government infrastructure and capital outlay needs of the region based on expected patterns of  
5 growth and development as a result of implementation of the strategic regional policy plan.

6 (f) Regional planning councils shall amend their strategic regional policy plans as a part of the  
7 evaluation and appraisal report process of the strategic regional policy plan to incorporate the  
8 regional vision required by this section. After adoption of an amended strategic regional policy  
9 plan which includes the regional vision, local governments shall amend their comprehensive  
10 plans to be compatible with and further the amended strategic regional policy plan within two  
11 years.

12 (g) Collectively, the strategic regional policy plans should form the basis for creating a state  
13 vision and revising the state comprehensive plan according to ss. 186.007-186.009. The state  
14 vision shall reflect regional visions, and guide state policy and investment.

15 (h) State, regional and local capital outlay and infrastructure funding shall support and further  
16 the adopted strategic regional policy plans.

17 (i) State, regional and local government agency budgets shall support and further the adopted  
18 strategic regional policy plans.

19 ~~(4)~~ (2) A strategic regional policy plan shall also contain regional goals and policies that shall  
20 address affordable housing, economic development, emergency preparedness, natural resources  
21 of regional significance, and regional transportation, and that may address any other subject  
22 which relates to the particular needs and circumstances of the comprehensive planning district as  
23 determined by the regional planning council. Regional plans shall identify and address

1 significant regional resources and facilities, including maintaining the function of natural  
2 resources of regional significance intact as the region grows. Regional plans shall be consistent  
3 with the state comprehensive plan.

4 ~~(2)~~ (3) The Executive Office of the Governor may adopt by rule minimum criteria to be  
5 addressed in each strategic regional policy plan and a uniform format for each plan. Such criteria  
6 must emphasize the requirement that each regional planning council, when preparing and  
7 adopting a strategic regional policy plan, must focus on regional rather than local resources and  
8 facilities.

9 ~~(3)~~ (4) In preparing the strategic regional policy plan, the regional planning council shall seek  
10 the full cooperation and assistance of local governments to identify key regional resources and  
11 facilities and shall document present conditions and trends with respect to the policy areas  
12 addressed; forecast future conditions and trends based on expected growth patterns of the region;  
13 and analyze the problems, needs, and opportunities associated with growth and development in  
14 the region, especially as those problems, needs, and opportunities relate to the subject areas  
15 addressed in the strategic regional policy plan.

16 ~~(4)~~ (5) The regional goals and policies shall be used to develop a coordinated program of  
17 regional actions directed at resolving the identified problems and needs.

18 ~~(5)~~ (6) The council shall give consideration to existing state, regional, and local plans in  
19 accomplishing the purposes of this section.

20 ~~(6)~~ (7) The draft regional plan shall be circulated to all local governments in the region, and the  
21 local governments shall be afforded a reasonable opportunity to comment on the regional plan.

22 ~~(7)~~ (8) The council shall provide for adequate input by citizens into the regional planning  
23 process.

1 ~~(8)~~ (9) Upon adoption, a strategic regional policy plan shall provide, in addition to other criteria  
2 established by law, the basis for regional review of developments of regional impact, regional  
3 review of federally assisted projects, and other regional comment functions.

4 ~~(9)~~ (10) Regional planning councils shall consider, and make accessible to the public,  
5 appropriate data and studies, including development-of-regional-impact applications and agency  
6 reports, in order to assist participants in the development-of-regional-impact review process. A  
7 major objective of the regional planning process shall be to coordinate with the state land  
8 planning agency in order to achieve uniformity and consistency in land use information and data  
9 collection efforts in this state and provide a usable and accessible database to local governments  
10 and the private sector.

11 ~~(10)~~ (11) Each regional planning council shall enter into a memorandum of agreement with each  
12 local health council in its comprehensive planning district to ensure the coordination of health  
13 planning, if the regional planning council elects to address health issues in its strategic regional  
14 policy plan. The memorandum of agreement shall specify the manner in which each regional  
15 planning council and local health council will coordinate their activities.

16 ~~(11)~~ (12) All natural resources of regional significance identified in the strategic regional policy  
17 plan shall be identified by a specific geographic location when geographic location data is  
18 available and not solely by generic type.

19 ~~(12)~~ (13) In addressing regional transportation, the council may recommend minimum density  
20 guidelines for development along designated public transportation corridors and identify  
21 investment strategies for providing transportation infrastructure where growth is desired, rather  
22 than focusing primarily on relieving congestion in areas where growth is discouraged.

1 ~~(13)~~ (14) Standards included in strategic regional policy plans may be used for planning  
2 purposes only and not for permitting or regulatory purposes. However, a regional planning  
3 council may not adopt a planning standard that differs materially from a planning standard  
4 adopted by rule by a state or regional agency, when such rule expressly states the planning  
5 standard is intended to preempt action by the regional planning council. The absence of a  
6 planning standard for a particular issue on the part of a state or other regional agency shall not be  
7 deemed to create a material difference from a planning standard adopted by a regional planning  
8 council. Planning standards may be used as a basis for comments on federal consistency and  
9 clearinghouse reviews. ~~However, any inconsistency between a local plan or plan amendment and  
10 a strategic regional policy plan must not be the sole basis for a notice of intent to find a local plan  
11 or plan amendment not in compliance with this act.~~

12 ~~(14)~~ (15) A regional planning council may not, in its strategic regional policy plan or by any  
13 other means, establish binding level-of-service standards for public facilities and services  
14 provided or regulated by local governments. This limitation shall not be construed to limit the  
15 authority of regional planning councils to propose objections, recommendations, or comments on  
16 local plans or plan amendments.

17 ~~(15)~~ (16) A strategic regional policy plan or any amendment thereto shall be adopted by rule by  
18 a majority two-thirds vote of the membership of the governing body of a regional planning  
19 council present at a duly noticed meeting constituting a quorum; ~~however, no strategic regional  
20 policy plan or amendment thereto shall be adopted by less than the majority of the members of  
21 the governing body.~~

22 ~~(16)~~ (17) In formulating regional policies, the regional planning council shall consider existing  
23 requirements in other planning and regulatory programs.

1 ~~(17)~~ (18) Each regional planning council, in its strategic regional policy plan, may recommend  
2 specific locations or activities in which a project, due to character or location, should be a  
3 development of regional impact within that comprehensive planning district.

4 (19) Each strategic regional policy plan shall establish and adopt indicators or benchmarks to  
5 determine whether the regional vision is being achieved. The Executive Office of the Governor  
6 may establish and adopt indicators or benchmarks to determine whether state policies and state  
7 agency investments are supporting the regional vision, and may require state agencies to prepare  
8 a biennial report assessing the extent to which the benchmarks or indicators are being met. The  
9 indicators or benchmarks in the strategic regional policy plans and reporting by state agencies  
10 regarding state indicators and benchmarks shall form the basis for evaluating and amending the  
11 strategic regional policy plans pursuant to s. 186.511 and the state comprehensive plan pursuant  
12 to s. 186.507.

13

**HB 1421**

HB 1421

2008

1                   A bill to be entitled  
2           An act relating to the Southwest Florida Regional Planning  
3           Council; directing the Southwest Florida Regional Planning  
4           Council to establish a pilot project; requiring the  
5           council to provide administrative oversight and hire  
6           contract employees; specifying the scope of the pilot  
7           project; providing for termination of the pilot project;  
8           requiring the council to submit a report to the Governor  
9           and Legislature; specifying report requirements; providing  
10          appropriations; providing an effective date.

11  
12   Be It Enacted by the Legislature of the State of Florida:

13  
14          Section 1.   (1) The Southwest Florida Regional Planning  
15          Council is directed to establish a pilot project to expand the  
16          current capabilities of the council to better identify and  
17          resolve potential conflicts in overlapping jurisdictions within  
18          the region.

19          (2) The Southwest Florida Regional Planning Council shall  
20          provide administrative oversight to the pilot project and shall  
21          hire contract employees as required for implementation of the  
22          pilot project.

23          (3) The scope of the pilot project shall include, but is  
24          not limited to:

25          (a) Developing and providing comprehensive planning tools  
26          to all the communities within the region.

27          (b) Facilitating community outreach by convening community  
28          discussion, meeting with city, county, and state permitting and

29 approval agencies, water management districts, and other local  
30 and regional organizations to define goals, issues, and  
31 challenges.

32 (c) Convening stakeholder groups for agriculture,  
33 environmental preservation, landowners, developers, residents,  
34 and others to further define the issues and areas of conflict  
35 and working in small groups to mediate acceptable solutions to  
36 the conflicts.

37 (d) Incorporating the concepts and ideas from the  
38 stakeholder groups and community outreach efforts into regional  
39 discussions for consensus building and conflict resolution.

40 (e) Contracting with the University of Florida's Geo-  
41 Facilities Planning and Information Research Center to further  
42 refine the geographic maps to develop a common vision for the  
43 future infrastructure needs, environmental preservation  
44 opportunities, and land use policies for the region.

45 (f) Contracting with a web-based community outreach  
46 service to enhance community input and communication management.

47 (g) Capturing the issues and conflicts that cannot be  
48 resolved or mediated for future discussion by the region as the  
49 effort moves forward.

50 (h) Providing written progress reports on a quarterly  
51 basis to the legislative delegations of Charlotte, Collier,  
52 Glades, Hendry, Lee, and Sarasota Counties and the Southwest  
53 Florida Regional Planning Council.

54 (i) Convening an annual meeting with the legislative  
55 delegations of Charlotte, Collier, Glades, Hendry, Lee, and  
56 Sarasota Counties and community stakeholders to discuss the

HB 1421

2008

57 progress of the region and its future direction.

58 (4) The pilot project shall terminate on July 1, 2011.

59 (5) On July 1, 2009, 2010, and 2011, the Southwest Florida  
60 Regional Planning Council shall provide an annual report of the  
61 pilot project's activities, including the impact of measurable  
62 outcomes within the region, to the Governor, the President of  
63 the Senate, and the Speaker of the House of Representatives.

64 Section 2. In fiscal years 2008-2009, 2009-2010, and 2010-  
65 2011, the sum of \$225,000 is appropriated from the unexpended  
66 funds in the Department of Community Affairs, the Department of  
67 Environmental Protection, and the Department of Transportation  
68 to the Southwest Florida Regional Planning Council for the  
69 purpose of funding the pilot project pursuant to this act.

70 Section 3. This act shall take effect July 1, 2008.

**SGA WASHINGTON  
UPDATE  
MARCH 10, 2008**



**March 7, 2008**

*After a long hiatus Smart Growth America is once again issuing our Washington Update, a regular summary of federal policy news on issues relevant to smart growth. Enjoy!*

**[Sign up for SGA's Action Alerts](#) and take the next step in advancing smart growth policies!**

### **Complete Streets Bill Introduced in the Senate**

HOUSE COMPANION BILL EXPECTED SOON

Sen. Tom Harkin (D-IA), joined by Sen. Tom Carper (D-DE), introduced the Complete Streets Act, S. 2686. The bill requires states and MPOs to adopt policies or legislation that ensures streets are designed and built to be safe for all users — including motorists, bus riders, bicyclists, and pedestrians, including people with disabilities. A growing number of states and municipalities have already adopted complete streets policies. In introducing the bill, Sen. Harkin called the measure a “win-win” that addresses congestion while also promoting healthy lifestyles. The bill has been endorsed by an array of national organizations. Similar legislation in the House of Representatives is expected soon. More information on the legislation is available at the [National Complete Streets Coalition's website](#).

**ACTION:** Call your Senator and ask them to co-sponsor The Complete Streets Act of 2008, S. 2686.

### **Committees Approve Budget Measures**

CAPITOL HILL REJECTS KEY BUSH PROPOSALS

Last week the House and Senate Budget Committees each approved FY 2009 budget resolutions. The resolutions are slated for action on the House and Senate floors this week. The budget resolutions set overall levels of spending and revenue, as well as the key program priorities within those totals. Once approved the budget provides a blueprint for the annual appropriations process. Action comes after a series of often contentious hearings on the Administration's spending plan.

The committee-approved resolutions reject many of the proposals outlined in the Bush Administration's budget, which was released in early February. The Administration had proposed shifting more than \$3 billion from transit to fund a projected shortfall in the Highway Trust Fund. That plan along with other transportation cuts was rejected. Find out more about the [Bush Administration's proposed budget](#).

The Senate resolution calls for an additional economic stimulus that includes funding for infrastructure projects. The resolution provides almost \$7 billion more than the President's budget for transportation and an additional \$3.5 billion in 2008 for "ready-to-go" infrastructure projects. The budget also boosts spending for EPA and energy programs.

**ACTION:** Call or write your Senator or Representative and ask them to protect key programs from cuts.

### **Green Infrastructure Legislation Approved by House Committee** BILL FOCUSES ON RESEARCH AND TRAINING

At the end of February, the House Committee on Science and Technology held a markup of The Green Transportation Infrastructure Research and Technology Transfer Act (H.R. 5161). The measure authorizes research and educational programs within the Federal Highway Administration and research partnerships in at least ten universities to study "green transportation infrastructure." The university programs would partner with transportation organizations on research and training. Introduced in the end of January by Technology Subcommittee Chairman David Wu (D-OR), the full committee approved the bill by unanimous voice vote. The measure now moves to the full House for consideration.

### **Hill Readies for Action on Climate Bills** HOUSE BILL WOULD OVERRULE EPA DECISION ON STATE WAIVERS

The Chairman of the House Energy and Commerce Committee John Dingell (D-MI) indicated his intention to release formal climate change legislation by mid-April. Cap-and-trade climate legislation is expected to be part of Dingell's overall package. No specific timeline for mark-up has been announced. In the Senate, supporters of the Lieberman-Warner cap and trade bill are aiming for floor action on the measure as early as May. The bill was approved by the Senate Environment and Public Works Committee late last year.

Reps. Peter Welch (D-VT) and Brad Sherman (D-CA) are introducing legislation, the Right to Clean Vehicles Act, to void the decision of EPA Administrator Johnson and immediately grant a waiver to California and 12 other states providing the authority to implement tailpipe emission standards. The bill comes after several hearings on the waiver issue. Senate EPW Chairman Barbara Boxer (D-CA), a vocal critic of the EPA waiver decision, has threatened to subpoena communications between the White House and EPA on the issue. California has filed a legal challenge to the EPA decision.

### **Farm Bill Negotiations Continue** MARCH 15 DEADLINE LOOMS, SHORT EXTENSION POSSIBLE

Disagreements between congressional leaders and the White House over tax and subsidy provisions have stalled progress on the Farm Bill. The measure faces an immediate deadline with the most recent extension set to expire on March 15. Senate Majority Leader Harry Reid (D-NV) has indicated a

willingness to go along with a short-term extension. Budget timing is another complicating factor as funding “baselines” for agriculture programs change forcing negotiators to find new funding and new offsets. The chairmen and ranking members of the House and Senate Agriculture Committees along with Agriculture Secretary Schafer appear to have come to agreement on a \$10 billion package but key details remain undecided. The Farm Bill funds a variety of important land conservation and nutrition programs. For more information on the Farm Bill, visit [American Farmland Trust's website](#).

**ACTION**: Visit the American Farmland Trust website to learn how you can take action.

**PROPOSED DEP  
REGULATION  
CHANGE  
ASSESSING DOCK-  
SIDE PROPERTIES**

**Nichole Gwinnett**

**From:** Council Member Marilyn Smith-Mooney [airhart@sunline.net]  
**Sent:** Friday, March 07, 2008 6:23 PM  
**To:** Ken Heatherington; Nichole Gwinnett  
**Cc:** Nelson, Richard John Lee  
**Subject:** Potential \$4,500 fee DEP considering assessing dock-side properties situated inland from a permitted dredging site on State-controlled submerged lands  
**Importance:** High  
**Attachments:** Punta Gorda.ppt; Boating Legislation.htm

**CITY OF PUNTA GORDA**

## City Council Member Communication

*Council's Mission ~ Promote the unique character and environment of Punta Gorda while enhancing property values and advancing the quality of life.*

**Please note:** Florida has a very broad public records law. Most written communications to City officials regarding City business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.

**SUBJECT: Opposition to Proposed DEP Regulation Change - Potential \$4,500 fee DEP is proposing be assessed on dock-side properties\* situated inland from permitted dredging sites on State-controlled submerged lands**

*(\*Note: this could very well apply to the many residences fronting/backing onto canal systems intended to connect boaters living in those residences to waterways, harbors, bays, the Gulf and the Atlantic, the submerged lands of which belong to the State)*

Ken,

It is imperative that this be emailed by Nichole ASAP to our entire distribution list for our Southwest Florida Regional Planning Council so that the information contained below and in the two attachments to this email receive the recipients' immediate attention and action.

For explanatory background as to the nature of this significant concern and the negative financial impact it could have on residential waterfront properties in our cities and counties located along the Gulf Coast, I would urge all to read the second attachment ~ **Boating Legislation.htm** ~ which is a column that recently appeared in Charlotte County's main daily newspaper and provides "need to know" information on this subject..

Additionally, the below emails authored by Richard JL Nelson, one of our city's residents, provides additional background; and his earliest letter to Vickie Thompson, Program Director of the DEP's Bureau of Public Land Administration can serve as an example of what other waterfront/canaled residential communities' elected officials also

3/12/2008

need to convey to Ms. Thompson, Governor Crist, their State Legislators and their Senators so that they are made fully aware of the significant negative economic ramifications this would trigger throughout waterfront/canaled communities on both of Florida's coastlines ... *especially in South Florida!*

*I would also ask, Ken, that you forward a copy of this communication to each of Florida's Regional Planning Council Executive Directors, asking them, too, to distribute it to those they typically email all information pertinent to their region's Planning Council.*

PERHAPS OUR PLANNING COUNCIL AND EACH OF THE OTHER REGIONAL PLANNING COUNCILS IN FLORIDA SHOULD ALSO CONSIDER ADOPTING RESOLUTIONS FOR EACH REGION STATING THEIR REGIONAL PLANNING COUNCIL'S OFFICIAL POSITION WITH REGARD TO THIS PROPOSED REGULATORY CHANGE AND PROVIDING THEIR PARTICULAR REGION'S REASONS FOR THE OFFICIAL POSITION ADOPTED BY RESOLUTION (i.e., numbers of residential properties within their specific Region of Florida that would be negatively impacted by such proposed fees; how they envision it will negatively impact their region's economic situation AND residential housing market at this point in time, etc.). Much the same as Mr. Nelson of Punta Gorda provided an aerial photo of our canaled residential communities to illustrate the significant number of properties that would be impacted by such a regulatory change, I believe similar aerial photos for all such areas along Florida's two coastlines should accompany each city, county and/or region's individual letters and/or adopted resolutions to better illustrate the potential magnitude of negative impact to be realized if the proposed regulatory change is enacted.

Thank you,

*Marilyn Smith-Mooney*

Marilyn Smith-Mooney  
SWFRPC Voting Member and  
City Council Member - District #2  
CITY OF PUNTA GORDA

City Hall Email: [district2@ci.punta-gorda.fl.us](mailto:district2@ci.punta-gorda.fl.us)

City Clerk's Office Phone: 941-575-3369

City Clerk's Office Fax: 941-575-3365

City of Punta Gorda Website: <http://www.ci.punta-gorda.fl.us>

City Council Web Page: <http://www.ci.punta-gorda.fl.us/departments/citycouncil/meet.htm>

Home Email: [airhart@sunline.net](mailto:airhart@sunline.net)

Home Phone: 941-637-0355

Home Fax: 941-637-8577

---

**From:** RJLN@aol.com [mailto:RJLN@aol.com]

**Sent:** Friday, March 07, 2008 3:04 PM

**To:** Vicki.Thompson@dep.state.fl.us

**Cc:** Adam.Cummings@charlottefl.com; dick.loftus@charlottefl.com; Tom.D'Aprile@charlottefl.com; Tom.Moore@charlottefl.com; tricia.duffy@charlottefl.com; District\_1; District\_2; District\_3; District\_4; District\_5; jbarbett@scgov.net; jthaxton@scgov.net; npatters@scgov.net; pmercier@scgov.net; sstaub@scgov.net; dist1@leegov.com; dist2@leegov.com; dist3@leegov.com; dist4@leegov.com; dist5@leegov.com; michael.grant@myfloridahouse.gov; paige.kreegel@myfloridahouse.gov; carlton.lisa.web@flsenate.gov; charlie.crist@myflorida.com; gmartin@sun-herald.com; porter@sun-herald.com; scott.woolam@dep.state.fl.us

**Subject:** Re: Contact info

In a message dated 3/7/2008 1:16:55 P.M. Eastern Standard Time, Vicki.Thompson@dep.state.fl.us writes:

| Mr. Nelson:

3/12/2008

I have added your name to my "Interested Parties" e-mail list so you will be notified each time there is information sent out on the chapter 18-21 "fees" rulemaking. Also, we post information on the Division's website - <http://www.dep.state.fl.us/lands/default.htm> - that will be updated as meetings are scheduled or language is modified.

Please let me know if there is anything else that you need.

**Victoria F. Thompson**

Program Administrator

Bureau of Public Land Administration

Department of Environmental Protection

3900 Commonwealth Blvd. MS #130

Tallahassee, Florida 32399-3000

850-245-2688

850-519-0259 cell

850-245-2761 fax

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**Dear Ms. Thompson:**

**Thank you kindly for your prompt response on this issue, which is very important to many of my fellow citizens of Southwest Florida. I received a telephone call from Scott Woolam this morning, and he explained the situation with the proposed rule change. His call was much appreciated.**

**Needless to say, I think it is safe to say that property owners in our area vigorously oppose this change, as written.**

**Realizing that your department has responsibility throughout the State, you may not be personally familiar with the unusual geography of waterfront communities in areas such as Sarasota, Charlotte and Lee Counties. I think you would understand our problem with this proposed change if you look at a map of Punta Gorda Isles, Charlotte Harbor or Cape Coral. For example, please find attached a satellite view of Punta Gorda Isles [note: this is a Powerpoint slide]. For most of the canal-front properties in this area, there is only one access, as indicated by the arrow (Ponce Inlet). This inlet is a very narrow channel that requires frequent dredging in the area that (as I understand it) is State-owned submerged land, outside of the inlet entrance.**

**Your rule, as written, would encumber all of the property owners in Punta Gorda Isles with a \$4500 charge, per lot, every time the channel was dredged. This is not only unfair---it is outrageous, and demonstrates that either your department does not understand Florida's waterfront communities, or does not know how to draft a regulation.**

**Best regards,**

**Richard Nelson  
941-639-3874 (home)  
941-763-9207 (cell)**

---

**From:** RJLN@aol.com [mailto:RJLN@aol.com]

**Sent:** Thursday, March 06, 2008 10:50 AM

**To:** vickie.thompson@dep.state.fl.us

**Cc:** Charlie.Crist@MyFlorida.com; leg.info@leg.state.fl.us; paige.kreegel@myfloridahouse.gov; michael.grant@myfloridahouse.gov; citizenservices@dep.state.fl.us; Adam.Cummings@charlottefl.com; dick.loftus@charlottefl.com; Tom.D'Aprile@charlottefl.com; Tom.Moore@charlottefl.com; tricia.duffy@charlottefl.com;

3/12/2008

jbarbett@scgov.net; jthaxton@scgov.net; npatters@scgov.net; pmercier@scgov.net; sstaub@scgov.net; dist1@leegov.com; dist2@leegov.com; dist3@leegov.com; dist4@leegov.com; dist5@leegov.com; District\_1; District\_2; District\_3; District\_4; District\_5; team@teampuntagorda.org; marco.rubio@myfloridahouse.gov; will.kendrick@myfloridahouse.gov; faye.culp@myfloridahouse.gov; richard.machek@myfloridahouse.gov; mary.brandenburg@myfloridahouse.gov; charles.chestnut@myfloridahouse.gov; rene.garcia@myfloridahouse.gov; doug.holder@myfloridahouse.gov; robert.schenk@myfloridahouse.gov; will.weatherford@myfloridahouse.gov; trudi.williams@myfloridahouse.gov; baxter.troutman@myfloridahouse.gov; scott.randolph@myfloridahouse.gov; thad.altman@myfloridahouse.gov; keith.fitzgerald@myfloridahouse.gov; peter.nehr@myfloridahouse.gov; garrett.richter@myfloridahouse.gov; ron.saunders@myfloridahouse.gov; ron.schultz@myfloridahouse.gov; carlton.lisa.web@flsenate.gov; stephanie.bailenson@dep.state.fl.us; gmartin@sun-herald.com; porter@sun-herald.com

**Subject:** Opposition to proposed regulation change

Dear Ms. Thompson:

I live in Punta Gorda, FL, County of Charlotte. As you know, the communities in our Southwest Florida area are economically dependent on our waterfront resources. The tourism, boating, recreation, and fishing industries are highly sensitive to government regulations that restrict or penalize the use of boats. This is true of most of coastal Florida, but particularly in our area, which is characterized by hundreds of miles of canals with contiguous residential properties.

Proposed F.A.C. Section 18-21 places an outrageous and unnecessary burden on dock-side properties that are situated inland from a permitted dredging site on State-controlled submerged lands. If this regulation were put into effect, it appears that the hundreds of residential properties in Punta Gorda Isles, for instance, would be assessed an automatic fee of \$4500 per residence, if the harbor entrance channel were dredged. Without this periodic dredging, hundreds of expensive boats within the canal system would be land-locked, and without alternative access to Charlotte Harbor and navigable waters, such as the Gulf of Mexico and the Inland Waterway. This is the offensive change, verbatim, from your proposed code change, p. 34:

(c) The fee for dredging easements providing boat access and for breakwater (groin) structures shall be:

1. An annual fee based on the size of the easement at the rate and category defined in 18-21.011(1)(a) 1, and

2. A one-time fee of: \$2,000 (freshwater only), or \$4,500 (saltwater access), per boat slip or waterfront residential lot benefited by the proposed easement.

On behalf of the thousands of boaters (and voters!) within our community, I urge DEP to delete this onerous addition to the many layers of waterway regulation that currently exist. This proposed regulation will have an inevitable, adverse impact on all affected waterfront property values. Whoever the DEP staffer(s) may be that concocted this ludicrous regulation, he/she/they should be fired for gross incompetence. If this section is not deleted, we intend to make this an essential and determinative issue for every elected official that is running for office in the next election.

Best regards,

Richard Nelson

2331 St. Davids Island Ct.

3/12/2008

# OPINION

Thursday, March 6, 2008/ The Sun

www.sun-herald.com c Our Town Page 11

## Alliance staying on top of boating legislation

As a citizen, you may assume that the waterways in our community are public domain, which is correct. These waterways are property of the public, managed by a state administration. The private use requires a lease or easements from the State.

Two Florida administrative codes governing the use of the public waters and the submerged lands are Chapter 18-20 (Florida Aquatic Preserves) and Chapter 18-21 (Sovereignty Submerged Lands Management). The management responsibility of these codes belongs to the Department of Environmental Protection. The governor and cabinet, sitting as the trustees retain final authority over use of submerged lands. Therefore any requests for the use of submerged lands is reviewed by the DEP and the trustees must approve the application.

From time to time the state revises these codes and when a lease or easement comes due for renewal these changes become part of the new agreement. We need to be aware of these changes to take actions necessary to avoid any impacts to our waterfront ownership. Areas affected are: the inlet channels to Ponce Park, Alligator Creek, Fishermen's Village, Laishley Park, Pirate Harbor, and the area in front of the new event center. Unless the channels are expressly identified by local government as public facilities, they are subject to the need for a private easement, regardless of whether the maintenance is

### Chuck Will

*Will is a member of the Punta Gorda Boating Alliance.*

exercised by a local government. This is usually done through local ordinances. There is a pending rule change that may have a material and financial impact on how we are allowed to access our navigational channels.

An example of a change to Chapter 18-21 reads: "The fee for dredging easements providing boat access and for breakwater (groin) structures shall be: A one-time fee of: \$2000 (freshwater only), or \$4500 (saltwater access), per boat slip or waterfront residential lot benefited by the proposed easement."

Residents in Punta Gorda, on a canal, may be required to pay the one time fee of \$4500, unless the channel is expressly identified as a public channel. A local environmental consultant discovered the change and regardless of their objections, this wording continues to appear in the current proposed rule revision.

Another example is the federal EPA discharge permit requirement for recreational boats. For 34 years the federal Environmental Protection Agency has exempted recreational boats from the Clean Water Act permit system. In 2006 U.S. District Court ruling canceled this permit exemption. The EPA has until Sept. 30, 2008 to develop and implement a national permit system.

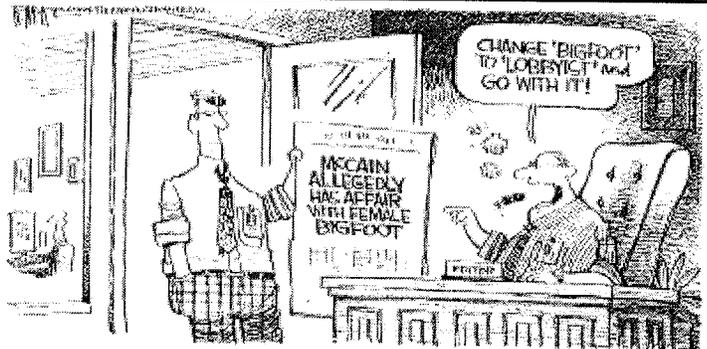
If the permit system becomes a reality, you will be required to obtain a state permit for each of your boats. EPA will be potentially monitoring your deck runoff, gray water, bilge water, engine cooling water, and the use of copper bottom paints.

How can we stay on top of these issues? For the most part through the commercial boat industry, local engineering firms, marine industry, and local politicians. But, for the average boater there are a few places to look. Boat US has a Web site ([www.boatus.com](http://www.boatus.com)) and one selection is "Government Affairs." You can go there and read up on the purposed permit requirement.

While there you will see current

legislation to reinstate the permit exemption, "The Recreational Boating Act of 2007," House Bill 2550 and Senate Bill 2067. The site contains a sample letter. Take a few minutes to send this letter to your senator and representative asking for their support. This could save you the expense of a permit in the future. The addresses are: Sen. Bill Nelson, Justice Center Annex Building, 2000 Main Street, Suite 801 Fort Myers, Fla. 33901; Rep. Tim Mahoney, 18500 Murdock Circle, Suite 536, Port Charlotte, Fla. 33948

In addition, if you review the proposed changes to Chapter 18-21 R.A.C. and would like to comment, contact Vicki Thompson at [Vicki.Thompson@dep.state.fl.us](mailto:Vicki.Thompson@dep.state.fl.us).



BEHIND THE SCENES AT "THE NEW YORK TIMES"

## LETTERS TO THE EDITOR

### Lien law needs to be changed

Editor:

I have not heard much about the contractors that have gone out of business lately. I guess everyone thinks the people who are suffering from their actions have gone away also. They have not. The Florida Lien Law is the worst law that the state has ever made. We the people who are being harassed by this law can tell everyone about how it works.

The contractors go out of business and take all the money with them. The subcontractors then go after the homeowners to collect the money that the contractors should have paid them. We are being subjected to lawsuits and letters when we have paid these contractors. We gave these contractors our money so we could have a home to replace the one that was taken away by Hurricane

nothing has come of it. I have written to Rep. Kreegel but he has not done much, if anything. I have written to Gov. Crist but he says he cannot do anything to help. How can you fight a Florida law like this? I think the only way is to move out of Florida.

Nancy Duval  
Punta Gorda

### AP's Obama story was unpatriotic

Editor:

Nedra Pickler did a disservice to the American people, to the Associated Press, and to Barack Obama. I find the implication that someone who has dedicated his or her life to serving America lacks patriotism utterly unpalatable. But reading Nedra Pickler of the AP's smear piece against Sen. Barack Obama, it appears that some in the media do not share this opinion.

No doubt that as the campaign season heats

up trumpets these substanceless attacks, and I hope that in the future we can expect reporting that focuses on the candidate's positions rather than trying to call into question how much they love the country they tirelessly serve.

Valerie Templeton  
Sarasota

### Candidates not offering plans

Editor:

I love it when a plan comes together. However, our top three presidential candidates either don't have any plans or they are not telling us about them. How can a country of apparently educated people fall for the generalities and silver-tongued rhetoric

we are hearing?

It is time to ask more questions of the politicians running for the highest offices of our land and demand that they give us their plan for reviving our country. This is not about race, religion or political party. It is about just doing the right thing. It is about being told more precisely and up front how they are going to address the issues. A black man or a woman could easily become a dictator as foolish as the Congress and the voters have appeared to be. I for one, would like to see Secretary of State Condoleezza Rice run for president. She definitely has the experience, sense and education over the top three presi-

dential candidates.

The bottom line is, just don't settle for what looks good and sounds good. The candidates have access to all the information they need to formulate plans and they should if they are truly capable of presiding over

our country. We need a president that can put plans into action on day one and not start off with on-the-job training. Also, we are in a recession regardless of what the media says.

Gerald Terpstra  
Englewood

## REAL ESTATE AUCTIONS

10 AM THURSDAY MARCH 6, 2008  
PGI SAILBOAT CANAL LOT

3112 Tripoli Boulevard, Punta Gorda Isles  
Directions: Travel Highway 41 South of Punta Gorda approximately 3 miles to Monaco (Wibbeens), Right on Tripoli, travel to the end.

1 PM THURSDAY MARCH 6, 2008  
HOME ON A HUGE BEAUTIFUL DEEP CREEK LAKE

2452 Nuremberg Boulevard, Deep Creek  
3 Bedrooms, 2 Bathrooms, Pool, 2 Car Garage  
Directions: Travel Highway 41, turn East on Harborview Road

# FREE



Ponce Inlet

Pointer 26°54'31.06" N 82°04'02.92" W elev 0.0 ft  
Streaming 100%  
Image © 2008 DigitalGlobe  
Image © 2008 The Florida Department of Environmental Protection  
© 2008 Europa Technologies  
© 2008 TurnHere, Inc.  
Punta Gorda, FL  
Charlotte Park  
Punta Gorda  
Google  
Eye:all 21773 ft

organization and is not an adjunct to a commercial endeavor.

~~5.8.~~ A waiver from payment of annual lease fees for a private residential multi-family dock or pier constructed in lieu of multiple private residential single-family docks or piers on existing individual, single-family riparian parcels shall be granted if the following conditions are met:

a. Private residential single-family docks or piers could otherwise be authorized under Chapter 18-18 or 18-20, as applicable, and 18-21, F.A.C., on all the affected parcels;

b. Each of the affected parcels contains or is zoned or approved for no more than one detached single-family residence;

c. A conservation easement in favor of the Board is placed on all the affected parcels to subordinate or waive any further riparian rights of ingress and egress for additional docks and piers; and

d. The Board determines that a waiver of payment of annual lease fees is not contrary to the public interest.

~~6.9.~~ If a facility occupies sovereignty, submerged lands, portions of which are exempted from payment by virtue of grandfathered status and portions of which are leased, and grandfathered status is lost, the lease fee and rate schedule for the entire preempted area shall be the annual lease fee determined in subparagraph (1)(a)1. at the time the exemption is lost.

~~7.10.~~ There shall be an assessment for the prior unauthorized use of sovereignty land for after-the-fact lease applications. The minimum assessment for such applications shall include:

a. Payment of retroactive lease fees; and

b. Payment of an additional annual percentage on the retroactive lease fees computed at a rate equal to two percentage points above the Federal Reserve Bank discount rate to member banks. Such rate shall be adjusted annually, on October 1 of each year.

~~8.11.~~ There shall be a late payment assessment for lease fees or other charges due under this rule which are not paid within 30 days after the due date. This assessment shall be computed at the rate of 12 percent per annum, calculated on a daily basis for every day the payment is late.

~~9.12.~~ If requested by the applicant, the Board shall determine, based on the following factors, whether a reduction of the assessment and an extension of the time period for payment of the assessment under the provisions set forth in subparagraph 9. above shall be granted:

a. The applicant's prior compliance with the provisions of Chapters 253 and 258, F.S., or any rules adopted thereunder;

b. Any failure of the applicant to comply with an order of the Board;

c. Whether any failure to comply under paragraphs (a) or (b) above was willful;

d. The need to deter future violations by removing any economic benefits to the applicant from failure to comply with the law;

e. Aggravating and mitigating circumstances specific to the lease application, including the nature and extent of the violation, and the applicant's degree of cooperation in correcting the violation;

f. Whether payment of the amount of the assessment or payment by the time due would create a substantial hardship that affects the applicant significantly different than other similarly situated applicants; and

g. The inability of the applicant to pay the fees assessed.

~~10.13.~~ Clean Marina Program Participation

a. There shall be a discount of 10 percent on the annual lease fee for facilities designated by the Department as a Clean Marina, Clean Boatyard or Clean Marine Retailer in the Clean Marina Program and actively maintaining their designation in the program, provided: that the facilities remain in good standing with all terms of their lease and with the Clean Marina Program; and the facilities do not change their use during the term of the lease. If a facility is in arrears on its lease fees, it shall not be eligible for this discount for the next annual billing period. Failure to comply with the conditions of the Clean Marina Program shall result in the loss of this discount for the next billing period.

b. The extended term lease surcharge shall be waived for facilities designated by the Department as a Clean Marina, Clean Boatyard or Clean Marine Retailer in the Clean Marina Program and actively maintaining their designation in the program, provided: that the facilities are available to the public on a "first come, first served" basis; that the facilities remain in good standing with all terms of their lease and with the Clean Marina Program; and the facilities do not change their use during the term of the lease. Failure to comply with these conditions shall result in the loss of the waiver of surcharge for the next billing period.

(c) One-time premium.

1. ~~Private residential multi-family docks that include ten or more wet slips shall be assessed a one-time premium surcharge payment on all new private leases, private lease expansions, conversions from first come, first served to private and private change of use conversion. This surcharge shall be 10 percent of market value of the leased area based on an appraisal. For all private lease expansions the surcharge shall be charged only on the expansion area. This surcharge is a one-time payment which is not credited toward any rental payments. This surcharge shall be computed by~~

~~multiplying the standard annual lease fee or base fee required in Rule 18-21.011, F.A.C., by a value of three~~The appraisal conditions will assume that the income to the lease area is at market rates and not encumbered by the Board's lease. The appraisal will be obtained by the Department and paid for by the applicant.

~~2. Paragraph 18-21.011(1)(c), F.A.C., shall apply to existing private leases with the one-time premium lease condition and to new private leases approved by the Board after the effective date of this subsection excluding grandfathered structures, unless one or more of the subparagraph 18-21.011(1)(c)3., F.A.C., conditions are complied with.~~

~~3. Paragraph 18-21.011(1)(c), F.A.C., shall not apply to:~~

~~a. Grandfathered structures;~~

~~b. Previously licensed facilities required to come under leases;~~

~~c. The renewal of leases;~~

~~d. Previously leased facilities without a one-time premium lease condition;~~

~~e. Those portions of structures that are grandfathered;~~

~~f. Facilities that are at least 90-50 percent open to the public on a first come, first served basis;~~

~~g. Docking facilities built before the effective date of paragraph 18-21.011(1)(c), F.A.C., in which the developers of the facility no longer have any interest in the facility and where the facility has been assigned to a homeowners association or other association made up exclusively of the residents of the development; or~~

~~h. To new lease applicants that are homeowners associations or other associations, made up exclusively of the residents of the development.~~

~~(d) Class III and IV Special Event Authorizations.~~

~~1. A Class III single event lease and a Class IV special events lease shall be assessed a special event fee. The special event fee shall be five percent of the gross rental income generated over sovereignty submerged lands from the special event, the base fee in subparagraph 18-21.011(1)(b)1., F.A.C., prorated for the time period of the preemption, or the minimum annual fee in subparagraph 18-21.011(1)(b)4., F.A.C., whichever is greater. Gross rental income is defined as the actual income collected from the rental or use of sovereignty submerged lands, and shall include any ancillary user charges, such as exhibitor or registration fees required for and directly attributable to the use of structures or conduct of activities on sovereignty submerged lands. However, the gross rental income shall not include pass-through fees such as fees for utility services or revenues generated from sales at concessions on sovereignty submerged lands. The lessee shall provide a certification to the Board showing the total amount of the gross rental income derived from the rental of wetlands on sovereignty submerged lands, including copies of all contracts and other documentation used to determine the gross rental income amount provided in the certification. Failure to account for all gross rental income shall be referred to the state attorney for appropriate action under Section 837.06, F.S. A conviction under Section 837.06, F.S., shall result in cancellation of the lease.~~

~~2. Class III and IV Special Event leases are also subject to the 25 percent first annual fee surcharge, aquatic preserve surcharge, the annual fee adjustment based on the Consumer Price Index, and other payments required by paragraph 18-21.011(1)(b), F.A.C. Special events are not eligible for the 30% discount provided by subparagraph 18-21.011(1)(b)2., F.A.C.~~

~~3. Where special events are conducted under the terms and conditions of an existing lease and are located within an existing lease area, the gross rental income per subparagraph 18-21.011(1)(d)1., F.A.C., collected by the lessee from the special event shall be reported as part of the annual certification required for the existing lease under subparagraph 18-21.011(1)(a)2., F.A.C. The "gross rental income" will be added to the "rental value of the wetland rental area" for calculation of the annual lease fee required by subparagraph 18-21.011(1)(a)1., F.A.C. Calculation of the rental value of the wetland rental area shall exclude the time-period during which the event is conducted.~~

~~4. A waiver of payment of lease fees for special events shall be available in accordance with subparagraph 18-21.011(1)(b)7., F.A.C.~~

~~(2) Private Easements.~~

~~(a) The fee for private easements, except for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., and except for dredging easements providing boat access and breakwater (groin) structures, shall be determined by an appraisal obtained by the Department applicant. The cost of the appraisal will be paid by the applicant. The appraiser must be selected from the division's approved list of appraisers and the appraisal must be reviewed and approved by the division. In addition to standard appraisal requirements and procedures, the following factors shall be considered in determining the easement fee:~~

~~1. The extent to which the easement is exclusionary; i.e., the degree to which the proposed easement precludes, in whole or in part, traditional or future public uses of the easement area or other submerged land; and~~

~~2. The enhanced property value or profit gained by the applicant if the proposed easement is approved.~~

~~(b) The fee for private easements for telecommunication lines and associated conduits that are subject to the provisions of paragraph 18-21.004(2)(1), F.A.C., shall be a one-time easement value and enhanced value fee of \$5.06 for installations outside of special consideration areas or a one-time easement value fee of \$0.06 for installations inside such~~

areas. The applicable fee shall be assessed per linear foot of telecommunication line or conduit as measured along sovereignty submerged lands from the State's territorial limits within the territorial sea to first landfall on the mainland for easements up to 10 feet wide, and shall be increased proportionally for easements of greater widths. This fee shall also be applicable to easement modifications to the extent that such modifications increase the easement area and to easement renewals. The fee shall be revised annually on March 1 and increased or decreased based on the average change in the Consumer Price Index, calculated by averaging the Consumer Price Index over the previous five-year period, with a 10 percent cap on any annual increase. This fee shall not be applicable to applications to transfer or assign an easement.

(c) The fee for dredging easements providing boat access and for breakwater (groin) structures shall be:

1. An annual fee based on the size of the easement at the rate and category defined in 18-21.011(1)(a) 1, and

2. A one-time fee of: \$2,000 (freshwater only), or \$4,500 (saltwater access), per boat slip or waterfront residential lot benefited by the proposed easement.

(3) Severed Dredge Materials.

(a) When an activity involves the removal of sovereignty materials to upland property by dredging or any other means, payment per cubic yard of material shall be as follows, except as provided in Section 253.03, F.S.

|                                                                                                                                      |         |
|--------------------------------------------------------------------------------------------------------------------------------------|---------|
| 1. Monroe County                                                                                                                     | \$3.25  |
| 2. Bay, Brevard, Broward, Charlotte, Collier, Dade, Duval, Escambia, Lee, Manatee, Palm Beach, Pasco, Pinellas and Sarasota counties | \$2.25  |
| 3. All other counties                                                                                                                | \$1.25  |
| 4. Minimum payment                                                                                                                   | \$50.00 |

(b) These payments shall not be used for dead shell and mining leases which will be subject to individual royalty or other compensation payments.

(c) A waiver of the severed dredge material payment shall be approved when:

1. The materials are being placed on public property and used for public purposes;

2. It is affirmatively demonstrated that the severed dredge material has no economic value; or

3. A governmental entity conducts a project with the sole objective of environmental restoration or enhancement and the Board determines that waiving the severance fee is in the public interest, as defined in Rule 18-21.003, F.A.C.

(4) Aquaculture Leases.

(a) The dollar amount of the fixed rate consideration for aquaculture leases shall be determined as follows:

1. By negotiation between the Department and the riparian upland owner when said owner is the applicant.

2. By negotiation between the Department and the nonriparian applicant for the first lease term when the applicant nominates the site.

3. By competitive bid:

a. When the Department designates sites for lease,

b. After the first lease term for all nonriparian leases, or

c. At the option of the nonriparian applicant when the applicant nominates a site.

4. An appraisal may be required when deemed appropriate by the Department. The cost of such appraisal shall be borne by the applicant.

5. Any production data determined to be necessary by the Department for the purposes of negotiation shall be supplied by the applicant upon the Department's request.

6. Fees for experimental aquaculture leases for public and nonprofit research institutions may be waived by the Board.

(b) Bids for aquaculture leases shall be written offers with a cash consideration which shall be based on a lease fee per acre per year. The competitive bid submitted to the Department shall include the bid per acre times the number of acres in the lease area offered. The total cash consideration offered shall accompany the written offer and shall be returned to the unsuccessful bidders upon award of the lease, or upon the matching of the high bid by the existing leaseholder upon rejection of all bids. The successful bidder will be required to pay all costs of legal advertisement in connection with this lease sale. All bids must be in a sealed envelope marked SEALED BID – STATE AQUACULTURE LEASE – showing lease number and date of sale, and accompanied by certified or cashier's check made payable to the Department of Environmental Protection, Bureau of State Lands Management, the full amount of the cash consideration offered as the bid.

1. All applicants including the existing leaseholder must submit a bid to be eligible for a lease when bidding is required.

a. The bid shall be received by the Department prior to the advertised closing date and time.

b. The existing leaseholder shall have five days to match the high bid and renew the lease if outbid.

c. When the existing leaseholder does not bid or does not exercise the right of first refusal the new lessee shall allow the prior leaseholder unencumbered access to the lease in order to harvest the aquaculture crop during the first year of the new lease.

2. Each bidder shall include as part of the bid a certified statement as to any submerged land lease holdings which have been granted by the State. Such statement shall also include the lease number and legal description for all such leases issued.

3. After the first year, the amount bid per acre shall be paid by the successful bidder on or before the first day of the month in which the lease was granted as a fee to be paid throughout the term of the lease.

4. The annual lease fee shall not be less than a fixed rate of \$15 per acre for a bottom lease and \$30 per acre when the lease is to include the water column. The annual fee shall be fixed by bidding or negotiation and adjusted annually pursuant to subparagraph 18-21.011(1)(b)6., F.A.C., to ensure the fixed rate is not reduced by inflation.

5. Existing shellfish leaseholders may convert to an aquaculture lease if they wish to include the water column in the leased area. Converted leaseholders that are not riparian owners shall have the first right of refusal if they are outbid.

6. When the water quality designation that is necessary for the particular activity is lost due to degradation of water quality the leaseholder shall have the option of:

a. Returning the lease to the state,

b. Conducting an aquaculture activity that is consistent with the change in water quality upon written approval by the Board or,

c. Continuing to retain the lease.

(5) Use Agreements for Geophysical Testing.

(a) For geophysical testing on private or Federal uplands involving any incidental crossing of sovereignty submerged lands, a \$40 per mile fee shall be required. If geophysical testing lines are located on State-owned uplands and a geophysical testing fee has been assessed, no mileage fee shall be assessed for incidental crossings of sovereignty submerged lands. However, if testing lines are located on both private and State-owned uplands, a mileage fee shall be assessed on that portion of the survey not on State-owned uplands. The mileage fee shall be paid to the Division within 180 days of receipt by the applicant of the executed use agreement, receipt to be verified by certified mail. In any case, payment shall be received by the Division prior to commencement of operations.

(b) For geophysical testing occurring in the water column above sovereignty submerged lands in bays, estuaries, and offshore Florida Territorial Waters, the following fees shall be required:

1. Two hundred dollars (\$200) per mile for testing conducted from the mean high water line seaward to 35-foot water depth contour;

2. Fifty dollars (\$50) per mile for activities conducted in State waters of 35-foot depth and greater.

(c) All fees shall be paid to the Division within 180 days of receipt by the applicant of the executed use agreement, receipt to be verified by certified mail. In any case payment shall be received by the Division prior to commencement of operations.

*Specific Authority 253.03(7), 253.03(11), 253.73 FS. Law Implemented 253.03, 253.71 FS. History—New 3-27-82, Amended 5-18-82, 8-1-83, 9-5-84, 10-20-85, Formerly 16Q-21.11, 16Q-21.011, Amended 1-25-87, 9-6-87, 3-15-90, 10-11-98, 10-15-98, 10-29-03, 3-8-04, 1-1-06.*

#### **18-21.012 Spoil Islands.**

(1) No spoil islands shall be developed except upon a clear showing that the development is in the public interest and hardship would result if the development was not authorized.

(2) Proposals for public development of spoil islands may be authorized after comments have been solicited and received from the appropriate public agencies determining that the public interest would be served by the development.

(3) Unauthorized structures that have been constructed on spoil islands shall be removed. The procedure for removal shall be as follows:

(a) The individual claiming a possessory interest in any structure shall be served notice by certified mail that he is trespassing and that he must remove the structure within 120 days of receipt of the notice.

(b) If the individual fails or refuses to remove the structure within 120 days of receipt of the notice, the board shall have the structure removed at the individual's expense.

(c) If the individual cannot be located, notice of trespass and intent to remove the structure shall be posted on the structure for 120 days prior to removal.

(4) Continuing human habitation of any spoil islands is prohibited.

*Specific Authority 253.03(7) FS. Law Implemented 253.03, 253.115 FS. History—New 9-26-77, Formerly 16C-12.05 and 16Q-17.05, Revised 3-27-82, Formerly 16Q-21.12, 16Q-21.012.*

#### **18-21.013 Applications to Purchase Lands Riparian to Uplands.**

(1) Applications to purchase lands riparian to uplands may be made by the riparian owners only. The board reserves the right to reject any and all such applications. The following shall be included in each application:

(a) Name and address of the applicant;

(b) Two prints of a survey prepared, signed, and sealed by a person properly licensed by the State of Florida Board of

**From:** Woolam, Scott  
**Sent:** Tuesday, March 11, 2008 5:06 PM  
**To:** Jordan, Marguerite L.  
**Cc:** Flanagan, Katie; Vielhauer, Harold; Herran, Mike; Thompson, Vicki  
**Subject:** FW: dock permit fee change

1. Please explain the proposed changes in fees.

The proposed changes that were initially drafted were to (1) update definitions; (2) provide one automatic 5 year renewal to the 5 year standard lease term if the lease is in compliance; (3) extend the standard term to 10 years for a lease to marina facilities that are 90% open to the public as long as the 90% open to the public requirement is a special lease condition; (4) change the fee formula from a minimum fee, base fee or 6% of revenue fee, whichever is greater, to a flat rate ranging from \$0.09/sq ft for a public lease greater than 3,000 sq.ft. to \$0.50/sq.ft. for a private lease greater than 3,000 sq.ft. within an aquatic preserve; (5) increase special event fees from 5% to 10%; (6) have the one-time premium surcharge on all new private leases, expansions conversions and private change of use which will be 10% of market value based on an appraisal; and, (6) have the fee for dredging easements providing boat access and breakwater structures to be an annual fee plus a one-time fee of \$2,000 for freshwater and \$4,500 for saltwater access per boat slip or waterfront residential lot benefited by the proposed easement.

2. Please provide the justification for charging dock owners \$4,500. Is this fee to be charged per boat slip?

Unfortunately the language was not clear and has created a misconception that every lot owner within huge areas will be assessed a \$4,500 fee which is incorrect. The \$4,500 is for *new* dredging easements only – not for maintenance dredging. The current rule requires an applicant to pay the value of the easement as well as an enhanced value determined by an appraisal. The draft language was an effort to simplify the process (no appraisal required) while not increasing the general amount now being paid by applicants for the same easement.

3. How will it be applied to marinas?

It will only affect new dredging easements or changes to existing easements (wider, deeper, etc.) Existing easements will not be charged the \$4,500 fee for maintenance dredging.

4. How will the proceeds be spent?

All money collected will be deposited into the Internal Improvement Trust Fund as defined in Chapter 253.

5. What law gives the DEP the authorization to levy this fee?

Chapter 253.03, F.S.

At the June 12, 2007 Governor and Cabinet meeting authorized the Department to enter into rule development regarding chapter 18-21 fees to begin the discussion/public debate on what the appropriate fee might be for the use of sovereignty submerged land and then return to the Board of Trustees. (Transcript of meeting is available.)

## 6. Is it fair?

The intent was to be fair by simplifying how fees are calculated **including eliminating the cost and need for an appraisal**. There have been 7 public meetings and workshops held around the state to discuss rule changes in an effort to include the public in the process. The comments received will be considered as the rule language is revised during the rulemaking process.

\_\_\_\_\_ Agenda  
\_\_\_\_\_ Item

5e

Other Emerging Regional Issues

5e

5e

**PEW FOUNDATION  
ADAPATION  
SERIES  
MARCH 3, 2008**

# CLIMATE CHANGE 101

## Adaptation



The Earth's climate is rapidly changing. In the United States and other nations, people are seeing how the impacts of rising global temperatures affect their communities, their livelihoods, and the natural environment. Substantially reducing greenhouse gas emissions is essential to avoiding the worst impacts of climate change. But mitigation alone is not enough. Even with emission reductions, some warming will still occur. Adaptation planning at the local, state, and national levels can limit the damage caused by climate change, as well as the long-term costs of responding to climate-related impacts that are expected to grow in number and intensity in the decades to come.

### CLIMATE CHANGE IMPACTS IN THE U.S.

For more than 50 years, the Earth's climate has been changing because of increasing greenhouse gas emissions from the burning of fossil fuels such as coal and oil, as well as deforestation and other human activities.<sup>1</sup> The warming of the Earth's atmosphere and waters, loss of land and sea ice, and rising global sea levels are not new phenomena. However, these global changes have been occurring at increasing rates in the last 30 years, particularly in the last decade. Science shows that climate change will continue, and accelerate, in the years ahead, with significant impacts on everything from our coastlines and our health to water supplies, ecosystems, and other natural resources.

**Warming and impacts vary by location.** If greenhouse gas emissions continue unabated, the continental United States is expected to warm one-third more than global averages,<sup>2</sup> meaning that Americans can expect an increase of 3–7°C (5.4–12.6°F), depending on where they live. For Alaska and the Arctic region as a whole, warming projections of 4–11°C (7.2–19.8°F) are at least *double* the mean increase for the world.<sup>3</sup> Already, the Arctic region is experiencing an array of impacts, including: severe winter storm surges and flooding; infrastructure damage and loss; land erosion; species loss; and the displacement of people and communities (see Figure 1).<sup>4</sup>



Figure 1. Shishmaref, AK. Erosion from winter storm surges required the village to be relocated. Source: Shishmaref Erosion & Relocation Coalition

In general, scientists expect the United States to see overall increases in precipitation (along with decreases in some areas, such as the Southwest), including increases in the intensity of hurricanes and more intense heavy rainfalls. Projections also indicate declines in snowpack, earlier snow and ice melt in areas including the West and Great Lakes regions, and more land areas affected by drought and wildfires (see Table 1).<sup>5</sup> Sea-level rise will affect the U.S. coastline to varying degrees, with the most severe impacts projected along the Gulf of Mexico and Atlantic coastlines,

including potentially significant losses of coastal wetlands.<sup>6</sup> All of these impacts will affect food and water supplies, natural resources, ecosystems, and human life and property (see Table 2). Especially hard hit will be plants and animals, as they will have more difficulty adapting to large-scale, rapid changes in climate, compared to human societies. Where the climate changes at a rate or to a level beyond their ability to adapt, many species will not survive.<sup>7</sup> While models can project levels of drought, precipitation and

severe weather events within very large regions, these models typically do not yet provide reliable projections at smaller scales, such as for individual towns or local ecosystems. As a result, the exact location and timing of these events cannot be forecasted with certainty.

### THE CASE FOR ADAPTATION PLANNING

**Limits on emissions will not be enough, or happen soon enough, to avoid all impacts of climate change.** Reducing emissions will

**Table 1. Sample of Projected U.S. Regional Climate Impacts<sup>3,5</sup>**

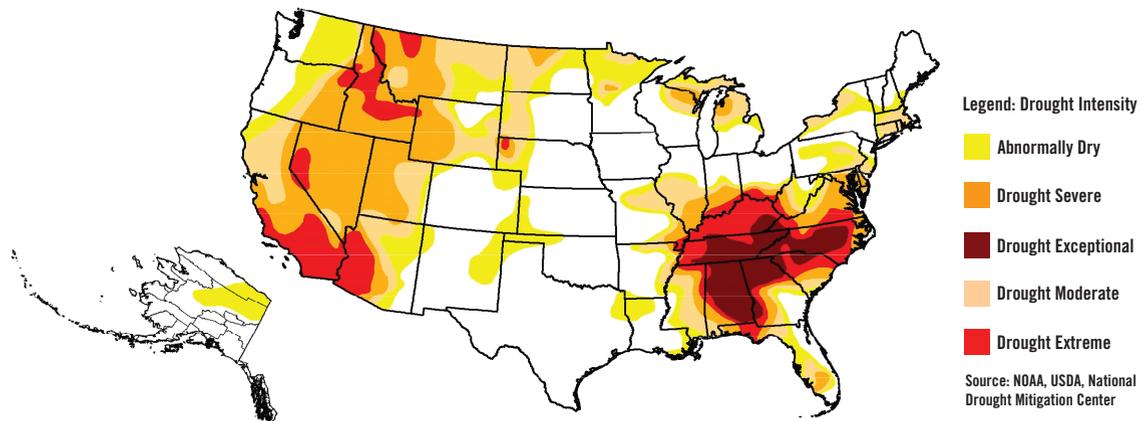
| Impacts                                                  | Region                                                                                                                       |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Coastal flooding/erosion <sup>8</sup>                    | South, Southeast, Mid-Atlantic, Northeast, Northwest, Alaska                                                                 |
| Hurricanes                                               | Atlantic and Gulf of Mexico coastal areas                                                                                    |
| Decreased snow cover and ice, more intense winter storms | Alaska, West, Great Lakes, Northeast                                                                                         |
| Flooding/intense precipitation                           | All regions, increasing with higher northern latitude                                                                        |
| Sea-level rise                                           | Atlantic and Gulf of Mexico coastal areas, San Francisco Bay/Sacramento Delta region, Puget Sound, Alaska, Guam, Puerto Rico |
| Decreased precipitation and stream-flow                  | Southwest                                                                                                                    |
| Drought                                                  | Portions of the Southeast, Southwest (see Figure 2)                                                                          |
| Wildfires <sup>8</sup>                                   | West, Alaska                                                                                                                 |
| Intense heat waves <sup>8</sup>                          | All regions                                                                                                                  |

**Table 2. Sample of U.S. Sectors and Projected Impacts**

| Sector                                              | Impacts                                                                                                                                                                                                  |
|-----------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Freshwater resource management <sup>7,9,10,11</sup> | Salination of freshwater; water table/aquifer depletion; increased runoff and pollution of freshwater sources; earlier runoff in snowpack-dominated areas.                                               |
| Agriculture <sup>7,9,10,11</sup>                    | Changes in yields due to precipitation and temperature extremes; increases in pests and disease; salination of irrigation water; changes in timing of biological events.                                 |
| Coastal resources <sup>7,9,10,11</sup>              | Inundation of low-lying areas from storm surges, sea level rise, stronger hurricanes and tropical storms; infrastructure damage; wetland loss; saltwater intrusion; loss of habitat; human displacement. |
| Forestry <sup>7,9,10,11</sup>                       | Forest loss to drought, wildfires, infestation, diseases, species migration and loss.                                                                                                                    |
| Tourism and recreation <sup>10</sup>                | Shorter winter recreation season due to reduced snowcover; longer summer season; loss of beaches to tropical storms, storm surges; loss of forest to wildfires.                                          |
| Public health/health services <sup>7,9,10</sup>     | Increased levels of heat stress, respiratory illness, chronic disease, human displacement (short-term and long-term), infectious disease, and premature death.                                           |
| Transportation infrastructure <sup>10</sup>         | Damage from sea-level rise, erosion, flooding and temperature extremes.                                                                                                                                  |

Figure 2

**U.S. Drought Monitor** for the week of October 16, 2007



decrease the magnitude of global warming and its related impacts. But carbon dioxide and other greenhouse gases can remain in the atmosphere for decades or centuries after they are produced. This means that today's emissions will affect the climate for years to come, just as the warming we are experiencing now is the result of emissions produced in the past. Because of this time lag, the Earth is committed to some additional warming no matter what happens now to reduce emissions. As a result, there are unavoidable impacts already built into the climate system. With worldwide emissions continuing to rise, adaptation efforts are necessary to reduce both the cost and severity of both mitigation and climate change impacts for decades to come.

**Current model projections underestimated actual rates of climatic changes and impacts.** Recent scientific research demonstrates that many aspects of climate change are happening earlier or more rapidly than climate models and experts projected.<sup>12</sup> The rate of change projected for global surface temperatures, and related impacts such as ice melt and sea-level rise, is unprecedented in modern human history. We now have nearly two decades of observations that overlap with model projections. Comparing the model projections to the observations shows the models underestimated the amount of change that has actually occurred. For instance, sea-level rise has occurred 50 percent faster than the projected rate, and the area of summer Arctic sea ice has decreased at three times the projected rate, while several other aspects of climate change have also been

### Glossary of Terms

**Adaptation:** Actions by individuals or systems to avoid, withstand, or take advantage of current and projected climate changes and impacts. Adaptation decreases a system's vulnerability, or increases its resilience to impacts.

**Adaptive Capacity:** A system's inherent ability to adapt to climate change impacts.

**Impact:** An effect of climate change on the structure or function of a system.

**Mitigation:** Actions to reduce greenhouse gas emissions.

**Resilience:** The ability of a system to withstand negative impacts without losing its basic functions.

**System:** A population or ecosystem; or a grouping of natural resources, species, infrastructure, or other assets.

**Vulnerability:** The potential for a system to be harmed by climate change, considering the impacts of climate change on the system as well as its capacity to adapt.

underestimated.<sup>13,14</sup> Adapting to climate change will become that much harder, and that much more expensive, to the extent that the changes happen faster, or on a larger scale, than we expect going forward.<sup>15</sup>

**Acting now to limit the potential damage from climate change is often smarter—and costs less in the long run—than acting later.** There is a human tendency to address current or near-term climate impacts in a just-in-time fashion (for example, water conservation measures to prevent droughts in some southeastern U.S. cities were started only after a severe shortage was evident).

This approach may work when: the impacts are predictable or slow in developing; solutions are available and can be implemented in time to save lives, property, or natural resources; and there is low risk of irreparable harm. Even under these conditions, however, people often overlook or delay solutions that reduce the ultimate risk of harm. “Proactive adaptation” requires assessing the vulnerability of natural and man-made systems (see Glossary of Terms), as well as the costs and benefits of action versus inaction, and planning alternatives accordingly. This approach recognizes the need to factor climate change into decisions that affect the long-term susceptibility of systems to the impacts of climate change. From the methods for building or repairing bridges, dams, and other infrastructure, to the rules and regulations governing coastal development and wetland protection, the decision whether to consider climate change now will have implications down the line.

**Some systems and societies are more vulnerable to the impacts of climate change than others.** Climate change will affect a wide array of systems including coastal settlements, agriculture, wetlands, crops, forests, water supply and treatment systems, and roads and bridges. The vulnerability of different systems varies widely. For example, the ability of natural systems to adapt to increasing rates of climate change is generally more limited than built systems.<sup>16</sup> Similarly, some countries or regions, such as the United States, may be better able to adapt to climate change, or have a greater “adaptive capacity,” than others. By contrast, the adaptive capacity of many developing countries is often limited by a number of vital factors, such as economic or technological resources (See Table 3). Even within developed countries such as the United States, some areas have lower adaptive capacity than others. Smart planning ensures that governments and communities are paying attention to those systems that are most vulnerable, while laying the groundwork for actions to reduce the risk to human life, ecosystems, infrastructure, and the economy.

## SUCCESSFUL APPROACHES TO ADAPTATION

Adaptation services are emerging as governments, businesses, and communities worldwide are recognizing the need to address current and potential climate change impacts (see Box 3: *Adaptation Planning Resources for U.S. State and Local Action*). Common elements in terms of methodology, or processes, for confronting climate change impacts include, but are not limited to:

**Recognize that adaptation must happen at local and regional levels.** Climate changes and their associated impacts vary greatly from location to location. Although national and international action is essential, many important decisions about how best to manage systems affected by climate change are made at local and regional levels. For example, states and localities have authority over land use planning decisions, including zoning and building codes, as well as transportation infrastructure. In some cases, state authority is extending to provide insurance coverage where the private market is retreating, exposing these states to larger financial risks. In exercising these authorities, managers, planners, and policy makers need to account for the potential outcomes of climate change. Yet systems such as water resources and species span city, county, and state lines. As a result, adaptation also requires planners from government, the private sector, and others to coordinate their activities across jurisdictions. Those engaged in planning need to share information, plan together, and collaboratively modify existing policies and procedures to ensure efficient and effective solutions. The exchange of information, resources, best practices, and lessons learned across jurisdictional lines and among different groups of stakeholders is a key element of successful adaptation planning.

**Identify key vulnerabilities.** Adaptation planning requires an understanding of those systems that are most at risk—and why. That means finding answers to questions in three key areas:

- **Exposure:** What types of climate changes and impacts can we expect, and which systems will be exposed? What is the plausible range of severity of exposure, including the duration, frequency, and magnitude of changes in average climate and extremes?
- **Sensitivity:** To what extent is the system (or systems) likely to be affected as a result of projected climate

**Table 3. Key Factors for Adaptive Capacity<sup>17</sup>**

| Factors                          | Examples                                                                                                                                                                                                                |
|----------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Economic resources               | Wealth of individuals and localities.                                                                                                                                                                                   |
| Technology                       | Localized climate and impact modeling to predict climate change and variability; efficient irrigation systems to reduce water demand.                                                                                   |
| Information/awareness            | Species, sector, and geographic-based climate research; population education and awareness programs.                                                                                                                    |
| Skills/human resources           | Training and skill development in sectors and populations; knowledge-sharing tools and support.                                                                                                                         |
| Natural resources                | Abundant levels of varied and resilient natural resources that can recover from climate change impacts; healthy and inter-connected ecosystems that support migration patterns, species development and sustainability. |
| Infrastructure                   | Systems that provide sufficient protection and enable efficient response (e.g., wireless communication, health systems, air-conditioned shelter).                                                                       |
| Institutional support/governance | Governmental and non-governmental policies and resources to support climate change adaptation measures locally and nationally.                                                                                          |

changes? For instance, will the impacts be irreversible (such as death, species extinction or ecosystem loss)? What other substantial impacts can be expected (such as extensive property damage or food or water shortages)?

- **Adaptive Capacity:** To what extent can the system adapt to plausible scenarios of climate change and/or cope with projected impacts?<sup>18</sup> What is feasible in terms of repair, relocation, or restoration of the system? Can the system be made less vulnerable or more resilient?

**Involve all key stakeholders.** Successful adaptation planning relies on input from, and the alignment of, all key stakeholders. This means broadening the participants involved in identifying problems and solutions. Because the impacts of climate change span entire regions, adaptation planning should involve representatives from federal, state, and local government; science and academia; the private sector (see Box 1: *Industry Adaptation Planning*); and local communities. Successful planning will require creativity, compromise, and collaboration across agencies, sectors, and traditional geographic and jurisdictional boundaries. It also requires the involvement of experts who can help participants understand historical and current climate and other trends affecting various sectors, and who can provide completed impact assessments for other locations with similar sectors and/or projected impacts.<sup>19</sup>

**Set priorities for action based on projected and observed impacts.** For vulnerable systems, prioritizing adaptive measures based on the nature of the projected or observed impacts is vital. The Intergovernmental Panel on Climate Change published a list of criteria to aid in identifying key vulnerabilities. Some of these criteria include:

- **Magnitude:** Impacts are of large scale (high number of people or species affected) and/or high-intensity (catastrophic degree of damage caused such as loss of life, loss of biodiversity).
- **Timing:** Impacts are expected in the short term and/or are unavoidable in the long term if not addressed. Consider also those impacts with variable and unpredictable timing.
- **Persistence/Reversibility:** Impacts result in persistent damage (e.g., near permanent water shortage) or irreversible damage (e.g., disintegration of major ice sheets, species extinction).
- **Likelihood/Certainty:** Projected impacts or outcomes are likely, with a high degree of confidence (e.g., damage or harm that is clearly caused by rising temperatures or sea-level). The higher the likelihood, the more urgent the need for adaptation.
- **Importance:** Systems at risk are of great importance or value to society, such as a city or a major cultural or natural resource.

- **Equity:** The poor and vulnerable will likely be hurt the most by climate change, and are the least likely to be able to adapt. Pay special attention to those systems that lack the capacity and resources to adapt.

**Choose adaptation options based on a careful assessment of efficacy, risks, and costs.** Due to uncertainties in projected climate changes and in how systems will respond to those changes, adaptation options carry varying degrees of uncertainty, or risk, as well. Timing, priority setting, economic and political costs, availability of resources and skills, and the efficacy of various solutions all should be a part of the discussion. The range of options includes but is not limited to:

- **No-regret:** Actions that make sense or are worthwhile regardless of additional or exacerbated impacts from climate change. Example: protecting/restoring systems

that are already vulnerable or of urgent concern for other reasons.<sup>20</sup>

- **Profit/opportunity:** Actions that capitalize on observed or projected climatic changes. Example: a farmer is able to shift to different crops that are better suited to changing climatic conditions.
- **“Win-win”:** Actions that provide adaptation benefits while meeting other social, environmental, or economic objectives, including climate change mitigation. Example: improving the cooling capacity of buildings through improved shading or other low-energy cooling solutions.<sup>21</sup>
- **Low-regret:** Measures with relatively low costs for which benefits under climate change scenarios are high.<sup>22,23</sup> Example: incorporating climate change into forestry, water, and other public land management practices and policies, or long-term capital investment planning.

## Box 1. Industry Adaptation Planning

To date, business action on climate change has primarily focused on managing the risks and opportunities associated with emerging regulations and changing market demands. But as recognition grows that some climate impacts are already occurring, and many more are likely inevitable, companies are beginning to develop adaptation plans to complement existing climate strategies.

Many of the projected impacts of climate change, such as sea level rise, increased incidence and severity of extreme weather events, and prolonged heat waves and droughts, could have serious consequences for businesses. Disruptions may include: damage to core operations, such as factories and office buildings; diminished quality and quantity of key inputs, such as water resources and forestry products; restricted access to the broader supply and demand infrastructure, such as electric utilities and transport networks; and sudden (or gradual) changes in demand for products and services.

Specific impacts will likely vary by sector. For example, higher demand for air conditioning during prolonged heat waves could stress and possibly overwhelm the electric grid. Longer and more intense rains could restrict access to construction sites and slow productivity in the buildings sector. Meanwhile, the agriculture industry is at risk of extreme drought that could render large swaths of previously arable land unusable.

Companies are beginning to recognize and act on these risks. Entergy, the New Orleans-based utility, which suffered \$2 billion in losses from Hurricanes Katrina and Rita, has begun relocating important business operations to areas less vulnerable to severe weather events. Mining giant Rio Tinto is using high-resolution climate modeling to conduct detailed site assessments and gauge risks to high-priority assets. Additionally, Travelers, a major insurance company, is exploring new pricing strategies to encourage adaptive actions from its commercial and personal customers.

For more information on business approaches to adaptation, see Frances Sussman and J. Randall Freed. Forthcoming. *Adapting to Climate Change: A Business Approach*. Pew Center on Global Climate Change: Arlington, VA.

- **Avoiding unsustainable investments:** Policies or other measures that prevent new investment in areas already at high risk from current climatic events, where climate change is projected to exacerbate the impacts.<sup>24</sup> Example: prohibiting new development in flood-prone areas where sea-level rise is increasing and protective measures are not cost effective.
- **Averting catastrophic risk:** Policies or measures intended to avert potential or eventual catastrophic events—i.e., events so severe or intolerable that they require action in advance based on available risk assessment information. Example: relocating Alaskan villages in areas at or near sea-level with projected sea-level rise and increasing severe weather events.

## U.S. STATES AND CITIES ARE BEGINNING ADAPTATION EFFORTS

Comprehensive, proactive adaptation planning is still in the early stages in the United States. As of January 2008, more than 20 bills had been introduced in Congress that addressed some aspect of adaptation. Many of the bills address mitigating impacts to fish and wildlife, natural resources, oceans or marine life. Others provide research or support to states on vital issues such as water resources or coastal impacts. A number call for both national and regional adaptation cost assessments. One bill focuses on potential conflicts over resources and environmental refugee concerns stemming from climate change. Taken together, these bills address many key adaptation challenges; increasing recognition of the need for a comprehensive approach to identifying or assessing at-risk systems, and the need to address the scope of funding and responsibility that will be required at both national and state levels to prepare for the full breadth of climate change. In the absence of current federal legislation on adaptation, and recognizing the importance of state and local action, states and localities are beginning to plan and act to address the unavoidable impacts that will occur in the decades to come.

**State Actions.** State governments are recognizing the need for broad-scale adaptation planning, and have started taking steps toward this goal. Five states—Arizona, Colorado, North Carolina, Utah and Vermont—acknowledge adaptation within their climate action plans addressing greenhouse gas

mitigation; recommending that comprehensive state adaptation plans be created. Six other states have already started their adaptation planning efforts, in parallel with their mitigation activities; these states include Alaska, California, Florida, Maryland, Oregon and Washington (see Figure 3).

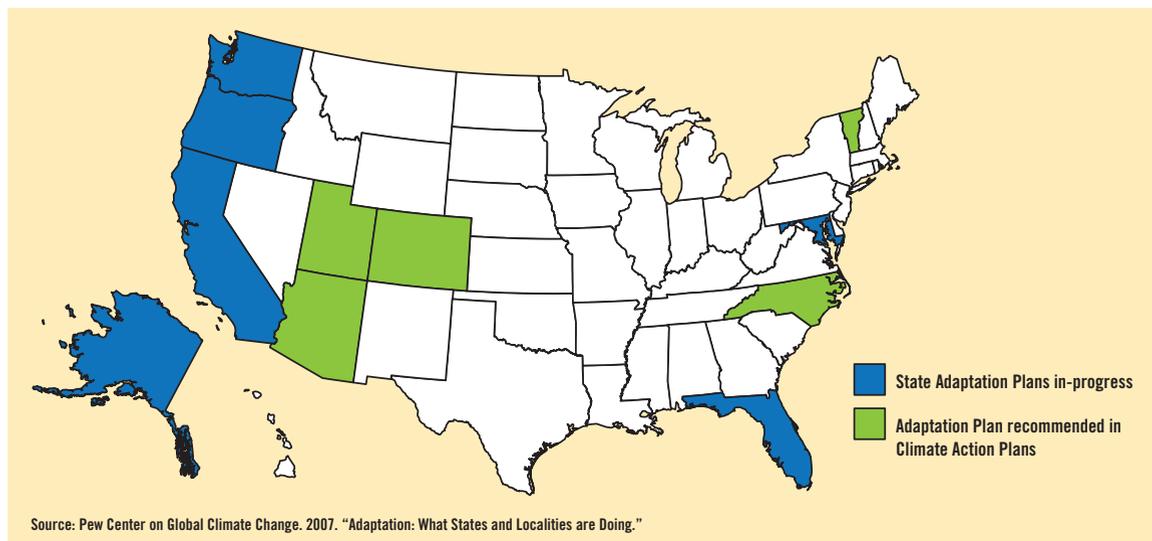
In California, political leaders recognize that climate change is having a wide range of impacts on the state's natural resources, ecosystems, infrastructure, health systems and economy. In June 2005, California Governor Arnold Schwarzenegger signed an executive order calling for biannual updates on global warming impacts facing California, as well as adaptation plans to address these impacts. As climate change continues and accelerates, it will strain these and other sectors further—bringing hotter, drier summers; increased risk of drought and wildfires; and expanded water resource needs. Through the California Energy Commission's Public Interest Energy Research program (PIER), research is under way to identify effective adaptation methods for agriculture, water resources and supply management, forest resources and wildfire management, and public health.<sup>25</sup>

As climate adaptation gains greater attention and resources, states will have much to learn from each other, as well as from other countries and localities where adaptation is already occurring. Additional resources to assist states and localities are available at the end of this brief (see Box 3: *Adaptation Planning Resources for U.S. State and Local Action*).

**Local Actions.** Hundreds of cities have created climate action plans, with more cities completing their plans every week. Although most plans are principally focused on achieving reductions in greenhouse gas emissions, communities across the United States are already taking action to address specific climate impacts. These city actions include: desalinating freshwater sources; protecting infrastructure and communities from flooding, erosion and more severe weather events; and preparing for more severe water shortages and droughts. These initiatives and others may be privately funded or managed, or they may be the responsibility of municipal, emergency response or other agencies. Currently, there is no formal process for sharing information across jurisdictions about their adaptation activities.

Figure 3

State-level Adaptation Planning



In addition to addressing specific impacts now, more localities are recognizing the need for comprehensive adaptation planning. For example, Seattle's climate action plan calls for an inter-departmental team to prioritize climate change-related issues and to make recommendations on adaptive measures and timing. The plan calls for the evaluation of impacts in several areas, including: sea-level rise, storm water management, urban forestry, building codes, and heat waves. At the same time, Seattle already is engaged in water-supply planning based on projected climate change impacts. In April 2007, New York Mayor Michael Bloomberg released his PLANYC: A Greener, Greater New York. In this plan, the mayor addresses adaptation, recognizing that the results of climate modeling indicate that New York faces significant economic and human health risks from storm surges, hurricanes and flooding, in addition to heat waves, wind storms and water contamination. While adaptation actions are already being taken to protect the city's water supply and sewage and wastewater treatment systems, in PLANYC, the Mayor calls for the city to conduct adaptation planning to protect critical infrastructure and specific communities at high risk from climate change. The plan also calls for an overall adaptation planning process.

An adaptation planning leader in the United States is King County, Washington, home to the city of Seattle. In 2006, this county formed its own inter-departmental climate change adaptation team, building scientific expertise within county departments to ensure that climate change factors were considered in policy, planning, and capital investment decisions. The county has considered climate in the development of emergency response plans, water supply planning processes, and all county plans (e.g., river and floodplain management plans). Most recently, King County and the University of Washington's Climate Impact Group co-authored a guidebook, *Preparing for Climate Change: A Guidebook for Local, Regional, and State Governments*, in association with the International Council for Local Environmental Initiatives: Local Governments for Sustainability.<sup>26</sup>

#### THE FEDERAL ROLE

Much investment is needed to help state and local governments, municipalities, private businesses, and individuals manage the impacts of climate change. At the moment, resources are lacking for adaptation planning and related activities, even though proactive approaches to reducing risks and limiting impacts can result in significant cost savings in the decades ahead, while protecting critical systems and human life.

## Box 2. Adaptation: A Global Perspective

Adaptation to climate change is a challenge for all countries. Some other industrialized countries, such as the United Kingdom, Netherlands, Germany, Australia, and Canada, are ahead of the United States in planning for climate change impacts, and their experiences provide valuable lessons for U.S. policymakers (see Box 3: *Adaptation Planning Resources for State and Local Action* at the end of this brief).

From a global perspective, the adaptation challenge is probably greatest for developing countries. They are generally more vulnerable to climate change by virtue of being at lower latitudes, where impacts such as increased disease and extreme heat and drought will be more pronounced, and because their economies are more dependent on climate-sensitive sectors such as agriculture, fishing, and tourism. What's more, with lower per capita incomes, weaker institutions, and limited access to technology, developing countries have less adaptive capacity.

In the 1992 UN Framework Convention on Climate Change, the United States and other developed countries committed generally to help "particularly vulnerable" countries adapt to climate change. In coming decades, adaptation in developing countries is estimated to require tens of billions of dollars annually.<sup>27</sup> To date, \$279 million in multilateral support has been pledged. Additional funds are now being generated through a levy on emissions credits generated through the Kyoto Protocol's Clean Development Mechanism (CDM). Under the Bali Roadmap, which launched talks on a post-2012 international climate agreement, stronger adaptation support is one of the core issues to be negotiated.

Effective international support will likely require stronger efforts both within and outside the UN climate change regime. Within the regime, options include support for comprehensive national adaptation strategies and for implementation of high-priority projects. Other support can be provided through multilateral and bilateral assistance programs to better integrate climate adaptation into the development process.

For more information on international adaptation, see Burton, I., Diringer, E., Smith, J. *Adaptation to Climate Change: International Policy Options*. The Pew Center on Global Climate Change, Arlington, VA, November 2006.

Just as the federal government must act to reduce U.S. emissions and take other steps to mitigate climate change, it must also take action on adaptation. Although not an exhaustive list, ways in which the federal government can enable efficient and effective adaptation strategies across the U.S. include:

### **Intellectual leadership, research and development**

- Provide ongoing climate science research, with a focus on impacts, sensitivity, and adaptive capacity.
- Provide improved modeling to project climatic changes at smaller scales and better forecast state and local impacts.

### **Policy and regulation**

- Require states to include climate change impact projections in infrastructure projects requesting federal funding.

- Require climate change adaptation screening in Environmental Impact Assessments.
- Update Federal Emergency Preparedness Plans to include potential climate change impacts and set guidelines for state preparedness plans.
- Review and update federal agency regulations and procedures where climate change impacts and adaptation are relevant, such as in the Departments of Interior and Agriculture, EPA and FEMA.

### **Coordination**

- Support coordination and collaboration among state and local agencies, governments, and private-sector entities, particularly for cross-state or cross-jurisdictional impacts and adaptation plans (e.g., integrated or consistent response plans, interstate stakeholder agreements, species or resource management).

- Develop policies to mitigate interstate impact and adaptation issues.
- Help ensure efficiency in adaptation resource planning and implementation.

#### Sharing of best practices

- Acquire knowledge from nations that are ahead in adaptation planning and action.
- Leverage knowledge, skills, resources, and technologies that are available in other countries to help state and local governments efficiently implement solutions as cost-effectively as possible (See Box 2: *Adaptation—A Global Perspective*).
- Support cataloguing of state and global solutions and other forms of knowledge sharing, and oversee nationwide communication and information systems for efficient dissemination of knowledge across locales and jurisdictions.

#### Models and planning tools

- Provide affordable modeling and adaptation planning tools to states, municipalities, private sector entities, and communities without sufficient funding, to help identify sectors at risk and assess vulnerable systems.

#### Education and awareness

- Help citizens, communities, and industries understand the risks of climate change impacts and their role in local and regional adaptation efforts, incorporate climate change adaptation into their way of operating, and increase participation and support for necessary actions.
- Fund education, training, and awareness programs to ensure citizens are fully informed and participating in viable adaptation solutions.

#### Funding

- Provide additional resources to states and localities lacking sufficient funding for proactive adaptation planning, in order to avert more costly reactive responses in the future.
- Provide support for updated impact assessments at state and regional levels.
- Provide bilateral and multilateral assistance for adaptation planning and measures in developing countries.

#### Federal Lands

- Consider the impacts of climate change on federal landholdings (e.g., National Parks, Forest Service, Bureau of Land Management lands) and infrastructure (e.g., naval facilities).

### PREPARING FOR THE FUTURE

While governments at all levels must begin acting to reduce greenhouse gas emissions, some degree of climate change is already inevitable. Climatic changes are happening now and are projected to increase in both frequency and severity before the benefits of emission reductions will be realized. Although mitigation is critical in addressing climate change, the need for both adaptation planning and action is also critical. The federal, state, and local governments, as well as resource managers, industry, and community leaders, all have a role to play in assessing the climate vulnerability of both natural and man-made systems, and taking action to help these systems adapt. Citizens and public and private entities can all contribute toward a common goal of averting dangerous climate risk and adequately preparing for those changes that are already unavoidable.

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#### Additional Adaptation reports available from the Pew Center on Global Climate Change ([www.pewclimate.org](http://www.pewclimate.org)) include:

*Coping with Climate Change—The Role of Adaptation in the United States* (2004)—This report provides an in-depth analysis of the need for adaptation action and strategies in the United States, with implications and recommendations for both natural and man-made systems.

*Adaptation to Climate Change: International Policy Options* (2006)—This report examines options for future international efforts to help vulnerable countries adapt to the impacts of climate change both within and outside the climate framework.

*Adaptation—What U.S. States and Localities are Doing* (2007)—This report provides an account of states and localities that have begun adaptation planning, as well as a state level inventory of adaptation planning in state climate action plans.

### Box 3. Adaptation Planning Resources for U.S. State and Local Action

**U.S. Climate Change Science Program (CCSP):** The Climate Change Science Program integrates federal research on climate and global change from agencies such as the Departments of Agriculture, Energy, Interior, and Transportation. Two CCSP adaptation reports currently available for review include:

- *The Impacts of Climate Variability and Change on Transportation Systems and Infrastructure*—This study looks at how climate change could affect roads, airports, rail, transit systems, pipelines, ports, and waterways for a region of the U.S. Central Gulf Coast, and ways to support transportation planning processes. <http://www.climate-science.gov/Library/sap/sap4-7/sap4-7-draft3.pdf>
- *Synthesis Assessment Product 4.4: Adaptation for Climate Sensitive Ecosystems and Resources* focuses on federally owned and managed lands and water, including national parks, forests, wildlife refuges, rivers, estuaries and marine protected areas. This report provides resource managers with adaptation options and processes for identifying vulnerabilities, and offers recommendations for federal roles and policies. <http://www.climate-science.gov/Library/sap/sap4-4/public-review-draft/default.htm>

**The Convention on Biological Diversity:** The Convention has created an Adaptation Planning Database and links to scientific studies and other resources, specifically for biodiversity-related climate change adaptation. The database includes data for: identifying vulnerable systems, assessing threats and impacts, identifying and evaluating options, and implementing adaptive measures. <http://adaptation.cbd.int/>

**Eldis—Community-Based Adaptation Exchange Program:** Eldis is a global services organization specializing in adaptation services in high-risk countries. It offers a database of donors, implementing agencies, academia, and policy organizations involved in adaptation. <http://www.cba-exchange.org>

**ICLEI Local Governments for Sustainability:** ICLEI is a global services organization specializing in both mitigation and adaptation support to local governments in the U.S. and globally. Through their Sustainable Cities program, ICLEI works with local governments to build resiliency to climate impacts. <http://www.iclei.org>

**Queensland Climate Change Center of Excellence (QCCCE):** Based in Australia, the QCCCE is a new unit within the state's Office of Climate Change, providing policy advice, information, and scientific data on climate change and impacts. *ClimateSmart Adaptation 2007-12* (put title in italics) is the government's action plan to increase resilience to climate change impacts in key sectors including: water planning, agriculture, emergency services, human health, tourism, finance, and insurance. <http://www.climatechange.qld.gov.au/>

**University of Washington's Center for Science in the Earth System, Climate Impacts Group (CIG):** CIG is an interdisciplinary research group studying the impacts of natural climate variability and global climate change on the U.S. Pacific Northwest. Its research focuses on four key sectors: water resources, aquatic ecosystems, forests, and coasts. CIG performs fundamental research on climate impacts and works with planners and policy makers to apply this information to regional decision-making processes. <http://www.cses.washington.edu/cig/>

**UK Climate Impact Program (UKCIP):** UKCIP provides tools and data to support climate change risk assessments and develop adaptation strategies. The program offers climate change and socio-economic scenarios, a framework for making decisions in the face of climate risk and uncertainty, and a methodology for costing the impacts of climate change. Although specific to the United Kingdom, UKCIP's tools and databases of climate change adaptation case studies and adaptation options are relevant and useful for the U.S. <http://www.ukcip.org.uk/>

**USAID:** Through their Global Climate Change Program, USAID helps developing countries and countries in transition address climate-related concerns. In 2007, USAID published a guidance manual for development planning, *Adapting to Climate Variability and Change*. This manual provides guidance on how to assess vulnerability to climate variability and change, as well as how to design or adapt projects so that they are more resilient to a range of climatic conditions. Specific cases on water, flood, and agricultural management impacts and adaptation options are included. [http://www.usaid.gov/our\\_work/environment/climate/docs/reports/cc\\_vamannual.pdf](http://www.usaid.gov/our_work/environment/climate/docs/reports/cc_vamannual.pdf)

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# CLIMATE CHANGE 101

## Cap and Trade



There are a variety of policy tools to reduce the greenhouse gas emissions responsible for climate change. This installment of the Climate Change 101 series explains how a cap-and-trade program sets a clear limit on greenhouse gas emissions and minimizes the costs of achieving this target. By creating a market, and a price, for emission reductions, cap and trade offers an environmentally effective and economically efficient response to climate change.

### WHAT IS “CAP AND TRADE”?

Policymakers have many options as they consider how to achieve greenhouse gas (GHG) reductions, but two approaches are most prominent: traditional command-and-control regulation, in which regulatory authorities direct how emissions limits will be achieved, and market-based approaches, which harness the forces of supply and demand to change behavior and achieve environmental goals. One proven market-based approach is cap and trade.

In a cap-and-trade program, the government determines which facilities or emissions are covered by the program and sets an overall emission target, or “cap,” for covered entities. This cap is the sum of all allowed emissions from all included facilities. Once the cap has been set and covered entities specified, tradable emissions allowances (rights to emit) are distributed (either auctioned, or freely allocated, or some combination of these). Each allowance authorizes the release of a specified amount of greenhouse gas emissions, generally one ton of carbon dioxide equivalent (CO<sub>2</sub>e).<sup>1</sup> The total number of allowances is equivalent to the overall emissions cap (e.g., if a cap of one million tons of emissions is set, one million one-ton allowances will be issued). Covered entities must submit allowances equivalent to the level of emissions for which they are responsible at the end of each of the program’s compliance periods.

Allowance trading occurs because firms face different costs for reducing emissions. For some emitters, implementing

new, low-emitting technologies may be relatively inexpensive. Those firms will either buy fewer allowances or sell their surplus allowances to firms that face higher emission control costs. Since a ton of carbon dioxide (CO<sub>2</sub>) emitted from one source has the same warming effect as a ton emitted from any other, the location of a given emissions reduction does not matter. By giving firms a financial incentive to control emissions and the flexibility to determine how and when emissions will be reduced, the capped level of emissions is achieved in a manner that minimizes overall program costs.

Although a critical and effective component of any comprehensive solution to climate change, cap-and-trade programs alone cannot achieve the GHG emission reductions required to stabilize the climate. Addressing climate change requires a combination of market mechanisms with other policy measures, including incentives and standards. For example, in order to begin rapidly cutting emissions, certain technologies may require additional supportive policies to push them to their full potential. In addition, some emission sources of GHGs cannot easily be covered by a cap-and-trade program and will need to be addressed using other policies.

Figures 1 and 2 illustrate the economic benefits of trading by means of a simplified example.

Emitter A (a power plant) and Emitter B (a manufacturing facility) emit a combined total of 900 tons of CO<sub>2</sub> a year.



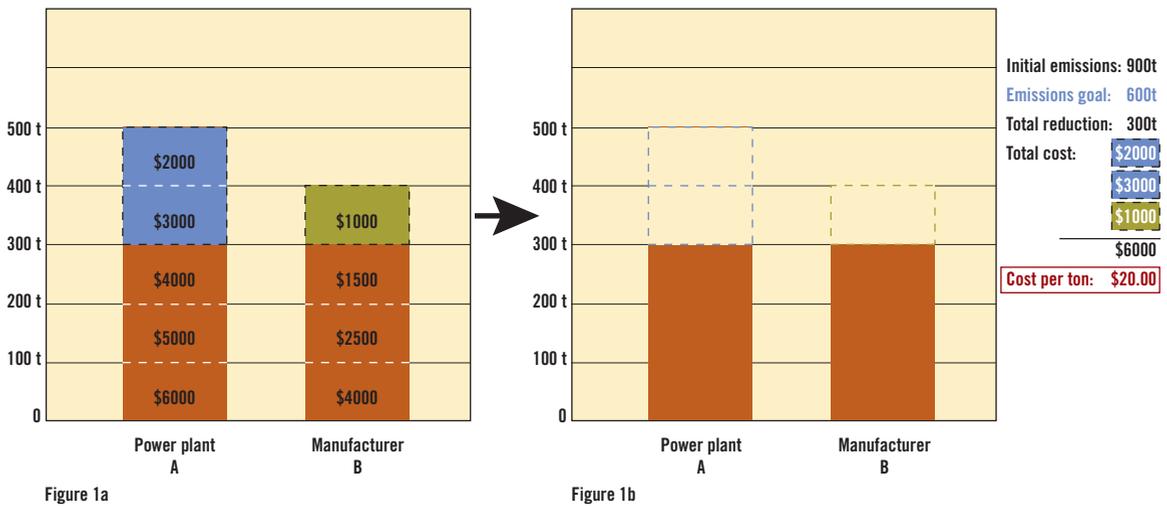
The government decides that these total emissions must not exceed 600 tons a year. As can be seen in Figure 1a, the cost of reducing a given amount of emissions for Emitter A is greater than the cost for Emitter B (Emitter A's first 100 tons of reductions cost \$2,000, while Emitter B's first 100 tons of reductions cost \$1,000, etc.). Under traditional environmental regulation, regulators might direct each fac-

ility to cut its respective emissions to 300 tons. Emitter A would spend \$5,000, while Emitter B would spend \$1,000; the 600 ton goal would be reached at a total of \$6,000, or \$20 per ton reduced (Figure 1b).

Alternatively, the government could establish a cap-and-trade system, setting an overall emissions cap of 600 tons

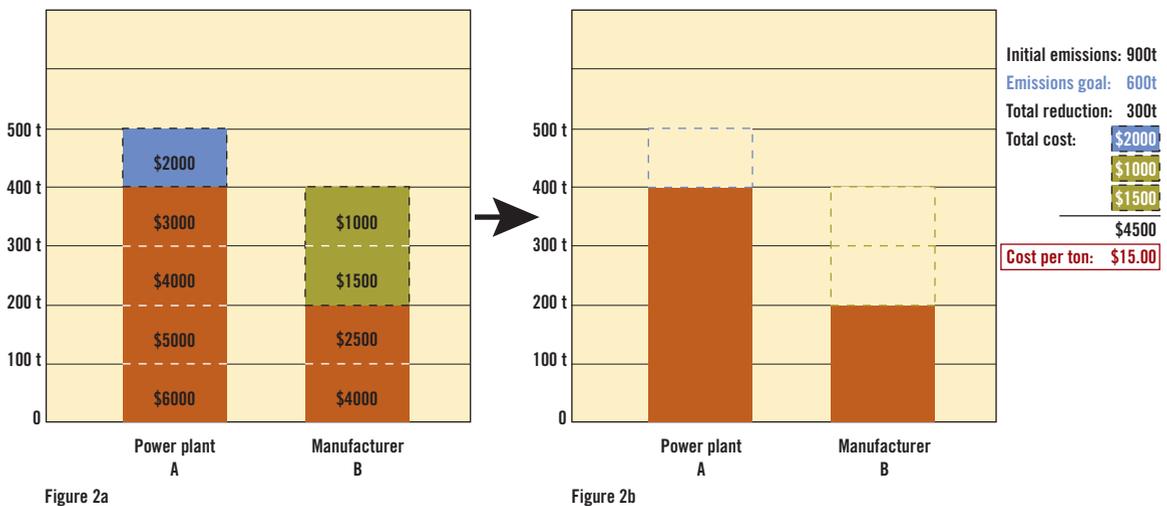
**Figure 1**

**Command and Control**



**Figure 2**

**Cap and Trade**



and then issuing 600 emissions allowances. If allowances were evenly distributed, both emitters would have an incentive to trade because emissions reduction costs are higher for A than for B (Figure 2a). Emitter B might cut emissions by 200 tons and sell its excess allowances to Emitter A for less than it would have cost Emitter A to make the reductions itself (for example, \$2,500 for 100 allowances). In this scenario, the desired level of emissions is reached at a lower total cost of \$4,500 and a lower cost per ton of \$15 (Figure 2b). The total cost is lower, as is the cost for each regulated facility.

### DRIVING INNOVATION

A key advantage of cap and trade (and market mechanisms in general) is that it provides an incentive for continuous innovation in emissions reduction.<sup>2</sup> Under traditional command-and-control regulation, there is no incentive to go beyond the regulatory standard. In fact, there may actually be a disincentive to do so because demonstrating the feasibility of additional effort may result in more stringent future regulation. In a cap-and-trade program, a firm that can reduce emissions at a cost lower than the allowance price either reduces its compliance cost (because fewer allowances need to be purchased) or frees up allowances that can be sold to others. This financial incentive drives the private sector to continually innovate and seek new emission-reducing technologies that regulators might not anticipate under more prescriptive command-and-control regulations. In a market system, such emission-reducing innovation can set the stage for deeper emission cuts over time. This is particularly important because meeting the challenge of climate change will require new technology to achieve the very deep emission cuts that are necessary.

### CAP AND TRADE MARKET DESIGN

Important decisions have to be made about what a cap-and-trade program will look like, including

- what emissions will be capped by the program (*scope of program*), and what entities will be required to hold allowances equivalent to emissions (*point of regulation*)
- the level of the emissions cap (*stringency*)

### Emissions Trading: A Homegrown Approach

Emissions trading programs have been used to reduce pollution in the United States since the 1970s, when the Environmental Protection Agency introduced trading as a compliance option for meeting certain requirements under the U.S. Clean Air Act. The 1990 Clean Air Act Amendments established the U.S. Acid Rain program for sulfur dioxide (SO<sub>2</sub>), a cap-and-trade system for SO<sub>2</sub> emissions from electric power plants that proved enormously successful, achieving its pollution reduction goals at approximately half the cost of traditional regulation.<sup>3</sup> Moreover, the program has proved administratively efficient, requiring a staff of approximately 50 people to track all emissions data, allowance transfers, and compliance.<sup>4</sup>

- whether provisions will be included to help ensure the costs of the program do not get too high or volatile (*cost containment mechanisms*)
- whether the program should be linked with similar trading programs (*linkage*)
- how allowances are to be distributed (*allowance distribution*)

**Scope and Point of Regulation.** The first step in setting up a cap-and-trade program is deciding which greenhouse gases and emissions sources are covered and who is responsible for holding allowances. Some sectors that might be included under the cap are electric power, manufacturing, transportation, or fossil fuel use. In theory, market-based programs are most cost-effective if they cover all GHGs in all major emitting sectors because including more sources and greenhouse gases offers a broader range of opportunities for low-cost reductions. However, including sources that are small or difficult to monitor can make the program too administratively complex; these sources may be addressed more efficiently through other regulatory mechanisms.

After deciding which emissions are covered by the program, policymakers must decide who is responsible for surrendering enough allowances to match their emissions every compliance period. This is known as the “point of

regulation,” where compliance is demonstrated by submitting allowances. Which entities are required to submit allowances to cover emissions determines whether a cap-and-trade system is defined as an upstream, downstream, or a product- or load-based program (or some combination of these).

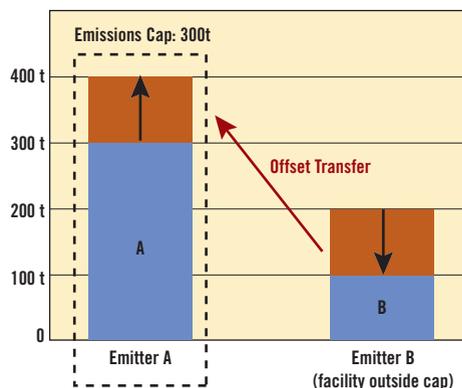
- **Upstream:** A pure upstream, economy-wide system for CO<sub>2</sub> would place a cap on the total amount of carbon contained in fossil fuels and other products used in the economy. It would require importers or suppliers of fossil fuels to submit allowances to cover the carbon in the products they sell. The key argument made in favor of an upstream approach is that one can achieve greater coverage of emissions at a smaller number of sources.
- **Downstream:** Under a downstream, source-based system, the covered entities are direct emitters of greenhouse gases (generally large emitters such as power plants or manufacturing facilities). The key arguments in favor of a downstream approach are that (1) to date, most experience with cap and trade has been based on downstream regulation, and this institutional familiarity makes such an approach less risky; and (2) downstream sources generally have more emission reduction options available, and are thus in a better position to respond to the requirements.<sup>5</sup>
- **Product- or Load-Based:** In a product- or load-based cap-and-trade system, the covered entities are responsible for all the emissions associated with the production of electricity, natural gas, or other product that they provide to customers.<sup>6</sup>

Many argue that, regardless of which entities are covered, an effective cap-and-trade program should follow some basic design criteria:

- Simple, consistent, and transparent rules
- Accurate emissions measurement, monitoring, and reporting, preferably done electronically and including public access to emissions data
- Sound auditing practices to ensure that emissions are being accurately reported
- Consistent enforcement with real penalties for non-compliance and inaccurate reporting
- Unrestricted trading of allowances and minimal transaction costs<sup>7</sup>

**Figure 3**

### Offsets



An offset represents an emissions reduction credit generated by an entity not included under a cap that can be sold to capped entities and used in the same manner as an allowance. In Figure 3 above, Emitter A is included under a cap-and-trade system with an overall cap of 300 tons. If offsets are permitted under the program, an entity outside of the cap (Emitter B) can make an emissions reduction of 100 tons, creating 100 reduction credits that can be purchased by Emitter A to offset a 100 ton increase in its own emissions. Although emissions from the capped entity total 400 tons, Emitter B offsets 100 of those tons, so that, on net, the same emission reductions are achieved.

### COST CONTAINMENT MECHANISMS

There are a variety of cost containment mechanisms that can help manage the cost of compliance for covered entities in a cap-and-trade program.

**Offsets.** Offsets are emission reduction projects undertaken at sources outside a cap-and-trade program. An offset mechanism enables covered entities to offset their own emissions by purchasing emission reduction credits generated through projects at facilities not covered by the cap (Figure 3). Offsets lower the overall cost of the program by bringing in low-cost emission reduction opportunities from outside the cap.

Offset projects may include landfill methane capture, afforestation, or other types of projects. Offsets should be measurable, real, additional,<sup>8</sup> and have clear ownership. Regulators must also be able to verify such projects. Through the Clean Development Mechanism of the Kyoto Protocol, developed countries can use offset projects in developing countries to comply with their targets.<sup>9</sup> The northeast Regional Greenhouse Gas Initiative allows certain types of offsets as well.<sup>10</sup>

**Temporal Flexibility: Borrowing, Banking and Compliance Period.** Markets can also be designed to include mechanisms for inter-temporal trading, allowing firms greater flexibility in compliance. Such flexibility can reduce allowance price volatility. Regulators can decide to let firms either “bank” or “borrow” their allowances. Banking allows firms to save, or “bank,” any excess allowances for future use or to sell later on, encouraging early or over-compliance.<sup>11</sup> Borrowing allows program administrators or covered entities to use in the current year allowances that will be issued in a future year, under the condition that they will “pay back” these allowances (perhaps with interest) by reducing emissions more in the future. Borrowing entails the risk that program administrators or firms will fail to pay back the borrowed allowances and the emission cap could thus be exceeded.

Longer compliance periods also provide some temporal flexibility. A “compliance period” is the length of time for which covered sources must submit allowances equivalent to their level of emissions, or face a penalty for failing to do so. A cap-and-trade program can have several compliance periods, especially if the cap is ratcheted down over time. The length of compliance periods determines how often covered emitters must submit allowances, and has important implications. Longer compliance periods are essentially the same as short-term banking and borrowing.

**Safety valves.** The term “safety valve” can have many meanings. Generally, it is a mechanism that triggers a change in the cap-and-trade program if compliance costs are higher than expected. The mechanism is often a pre-determined allowance price which triggers additional cost containment measures. The safety valve may allow emitters greater flexibility in how they comply with a cap, for example by increasing the availability of offset credits, changing the timing of program compliance,<sup>12</sup> or expanding the use of “borrowing” allowances (described above).

A safety valve may or may not affect the environmental integrity of the program. One version of a safety valve sets an allowance price cap that triggers the issuance of additional allowances to ensure that the price stays below a certain threshold. Since these additional allowances enable the emissions cap to be exceeded, this type of safety valve

does not ensure that environmental goals will be achieved. Another disadvantage of an allowance price cap is that it can inhibit linking or trading with market systems that do not have such a price cap (see below).

Choosing the price at which additional cost containment measures are needed is difficult. If set too high, the price can have little actual effect on costs. If set too low, it can diminish the economic incentive for technological innovation created by a cap-and-trade system.

**Linkage.** Cap-and-trade programs can be designed to link with other similar trading systems in other regions. Linking to other programs has the advantage of effectively expanding the market, leading to even more opportunities for low-cost emissions reductions and a larger market for new technologies. There are few hard-and-fast barriers to linking, but it is more easily achieved if certain structural elements are comparable in both programs.<sup>13</sup>

## ALLOWANCE DISTRIBUTION

Once the cap has been set and the overall design of the cap-and-trade program established, choices have to be made about the best way to distribute emissions allowances.<sup>14</sup> In general, how allowances are initially distributed does not affect the emission reductions achieved by a cap-and-trade program.<sup>15</sup> However, it does affect how the program’s costs are distributed and can sometimes affect overall program costs.<sup>16</sup> There are two basic approaches to allowance distribution: some form of free allocation, or some form of auction. A combination of auctioning and free allocation, or a shift from one to the other over time, is also possible. Regardless of which method is favored, either allowance allocation or auction revenues can be used to mitigate economic impacts (e.g., by granting allowances to emitters who are competitively disadvantaged by emission caps) or drive innovation (e.g., by using allowances or auction revenues to fund or incentivize research, development, demonstration and deployment of low-carbon technologies).

Several types of free allocation exist. Allowances can be given away for free based on participating entities’ historical emissions (a method also known as “grandfathering”). Output-based methods of allowance allocation are based on the

output of a product in a given sector. For example, allowances might be distributed based on megawatt-hours generated or tons of a product manufactured. Benchmarking, or setting a level of emissions (in the form of allowances) per unit, can be applied based on input or output. Allowance allocations may also be “updated” over time as input, output or emissions change. In the case of free allowance allocation, it is important to bear in mind that the point of regulation described above (where compliance is demonstrated by submitting allowances) does not necessarily need to be the same point at which allowances are initially distributed.

There are tradeoffs between simplicity and equity if allowances are distributed for free. For example, basing allocation on historical emissions is relatively simple. However, it means that some form of credit for early action would be needed to ensure that firms who took voluntary measures to reduce their emissions before the base year are not penalized for doing so. Updating has the advantage of adjusting allocation to changing circumstances. However, while fixed allocations will not affect firms’ future behavior, updating encourages firms to behave in ways that will maximize their future allocation. For example, if firms believe that allowances will be distributed based on future emissions, they may try to increase their emissions in order to receive more allowances.

As an alternative to free distribution, allowances can be auctioned. Auctioning generates revenue that the government can use to provide relief for compliance or higher energy costs. The government can also use the auction revenue to reduce other taxes that may be discouraging economic growth, or to fund complementary policies. However, as with the various forms of free allocation, there are tradeoffs involved with auctioning allowances. The impact of costs on a given firm depends on the competitiveness of the industry in which the firm operates as well as that industry’s regulatory environment. In some cases, auctioning may unfairly hurt participants lacking the funds to purchase enough allowances from outside the covered region. This is especially true for firms who cannot pass on some or all of the costs of their allowances to consumers. However, firms in other industries might be able to pass on their compliance costs under a cap-and-trade system. In these cases, firms would be over-compensated if most or all allowances were given away for free, which might lead to windfall profits for these firms.

## Tax or Trade?

In addition to cap and trade, another type of market mechanism sometimes discussed as a means of reducing GHG emissions is a carbon tax, which would require emitters to pay a tax for every ton of GHGs they emit. The key difference between the two approaches is that cap and trade provides environmental certainty, since the quantity of total allowable emissions is set, while a tax provides price certainty, since the cost of emitting a given amount of GHGs is set. In response to a tax, many emitters will reduce their emissions, but others might simply accept the additional cost and continue to emit. Determining the correct level at which to set a tax in order to drive any given level of emissions reductions is difficult.

Cap and trade and a tax have to address many of the same issues. Both cap and trade and a carbon tax use economic incentives to promote least-cost emission reductions and drive climate-friendly innovation. Both approaches would require careful monitoring and enforcement, and both must address the question of how to distribute costs and benefits. For cap and trade that means figuring out how to distribute and/or auction emission allowances; under a tax that means figuring out who pays the tax and what to do with the tax revenue.

Auctioning some or all allowances could help avoid such windfalls. Auctioning can also help address concerns about crediting early action by firms, as it rewards those who have already reduced emissions by investing in lower-carbon technologies.<sup>17</sup>

Either allowances themselves (in the case of free allocation) or auction revenues (in the case of auctioning) can be used to advance program goals under a cap-and-trade system. For example, if regulators want to promote end-use energy efficiency programs among consumers, they could either use proceeds from auctioning allowances to support efficiency projects, or distribute allowances for free to entities undertaking efficiency projects. Similarly, just as auction revenue can be used to help offset program costs, free allocation can also be

used to deal with high compliance costs which might be passed on to consumers. The key difference between auction revenue and allowances is that auction revenue can more easily be used to adjust other taxes, and allowances are more easily limited to purposes more closely tied to the cap and trade program itself.

### GREENHOUSE GAS TRADING IN PRACTICE

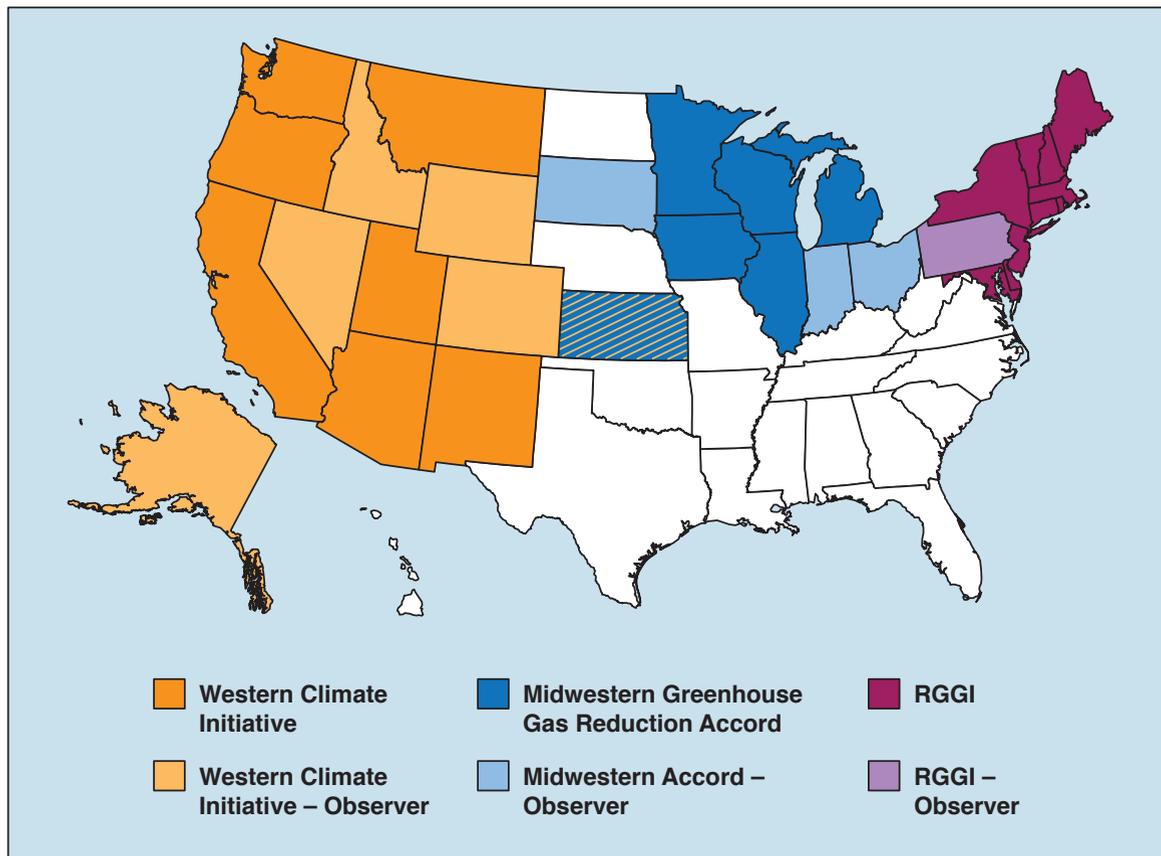
Emissions trading systems are already proving their value as tools to address climate change by reducing emissions of greenhouse gases throughout the world, and other markets are under development.

**EU Emissions Trading System.** The world's most ambitious and far-reaching example of greenhouse gas emissions trading

is the European Union's Emissions Trading Scheme (ETS), which limits CO<sub>2</sub> emissions from approximately 12,000 facilities in the 25 EU member states. Launched in 2005, the ETS covers power plants and five major industrial sectors (including oil, iron and steel, cement, glass, and pulp and paper) that together produce nearly half the EU's CO<sub>2</sub> emissions. An initial "learning phase" (phase I) ran through 2007; a second coincides with the Kyoto Protocol compliance period (2008-2012). Excess emissions incur a penalty (40 Euros/tonne in phase I, 100 Euros/tonne in phase II) and must be made up in the next phase. During the learning phase, ETS allowance prices fluctuated due to weather (affecting energy demand), shifts in energy prices, and initial over-allocation of allowances as a result of incomplete

**Figure 4**

States Establishing **Regional Cap-and-Trade Programs** for Greenhouse Gases



Three regional cap-and-trade programs are currently in development within the United States. A total of 23 states (accounting for 36 percent of total U.S. emissions) are full participants in these programs, and an additional nine states are participating as observers.

historical emissions data. Many regard these fluctuations as characteristic of a new compliance market. The EU ETS plans to adjust its allocations in the next phase and is also considering auctioning a significant portion of the allowances.

The ETS is the first program of its kind and size, and has established a functioning market in a relatively short span of time. Volume of allowance trading reached over 100 million allowances per month in early 2007, and rates of compliance with the program are high. In general, the EU ETS promotes innovation and is seen as flexible and cost-effective. European Union policymakers have said the ETS will continue beyond 2012 with or without a new international climate agreement. In January 2007, the EU commission released its proposal to commit the EU to a GHG reduction target of 20 percent below 1990 levels by 2020 and suggested that if other industrial countries follow suit—namely the United States—the EU will commit to 30 percent.

**Regional Greenhouse Gas Initiative.** The Regional Greenhouse Gas Initiative (RGGI) is the first mandatory U.S. cap-and-trade program for carbon dioxide. Currently, ten northeastern and mid-Atlantic states are participating: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

RGGI sets a cap on emissions of carbon dioxide from power plants in the region, and allows sources to trade emission allowances. The program will begin by capping emissions at current levels in 2009, and then reducing emissions 10 percent by 2019. Sources will continuously monitor and report their emissions, and penalties for non-compliance will be enforced according to each state's rules. Member states agree to each set aside at least 25 percent of their emission allowances for public benefit purposes, such as promoting renewable energy and energy efficiency or mitigating possible increases in consumer energy prices. Many of the RGGI states have committed to or are considering setting aside a greater portion of allowances for such purposes. RGGI also allows the use of offset projects for compliance, but these projects will need to meet strict standards and will be limited to ensure that significant reductions occur at electric generators.<sup>18</sup>

**California and the West.** In September 2006 Governor Schwarzenegger signed AB 32, the Global Warming Solutions Act. The Act caps California's greenhouse gas emissions at 1990 levels by 2020 and represents the first state-wide program in the United States that caps all GHG emissions from major industries and includes penalties for non-compliance. California is currently in the process of designing a comprehensive program to meet its goals under AB 32. The state is considering using market mechanisms, including a cap-and-trade program, as part of AB 32 implementation, and may try to link its program to RGGI and the EU-ETS markets.

California is also part of a larger, regional cap-and-trade program that is likely to emerge in the West. In February 2007 the Governors of Arizona, California, New Mexico, Oregon, and Washington signed an agreement establishing the Western Climate Initiative, a joint effort to reduce greenhouse gas emissions and address climate change. The states of Utah and Montana as well as the Canadian Provinces of British Columbia and Manitoba joined the Initiative in the following months. Under the agreement, the states and provinces jointly set a regional emissions target in August 2007 of 15 percent below 2005 levels by 2020, and by August 2008 will devise a market-based system—such as a cap-and-trade program covering multiple economic sectors—to aid in meeting the target.

**Midwestern Accord.** In November 2007, six states and one Canadian Province established the Midwestern Regional Greenhouse Gas Reduction Accord, under which members agree to establish regional greenhouse gas reduction targets, including a long-term target of 60 to 80 percent below current emissions levels, and develop a multi-sector cap-and-trade system to help meet the targets. Participants will also establish a greenhouse gas emissions reductions tracking system and implement other policies, such as low-carbon fuel standards, to aid in reducing emissions. Members of the Accord include Illinois, Iowa, Kansas, Michigan, Minnesota, and Wisconsin, as well as the Canadian Province of Manitoba.

## THE BENEFITS OF CAP AND TRADE

Cap-and-trade programs offer significant advantages over traditional regulatory policies, particularly in the effort to address climate change. Unlike traditional regulation, cap and trade constrains emissions but lets market forces set a price on

greenhouse gas emissions and helps minimize the cost of making substantial reductions in those emissions. Rather than mandating a specific technology, the flexibility afforded by emissions trading markets helps identify where emission reductions can be achieved most cost-effectively. Cap and trade stimulates the development of new technological solutions that can enable much deeper cuts at lower cost in the future—technologies that regulators simply cannot anticipate. Furthermore, emissions trading programs can be designed to cover a wide variety of emissions sources and sectors and serve as the core of an economy-wide GHG reduction program.

Despite its strengths, cap and trade alone cannot achieve the GHG emissions cuts necessary to address climate change, but, combined with other regulatory measures and incentives, can be a key part of the solution. In order to achieve the

necessary reductions, certain technologies may need to be targeted by specific supportive policies in order to reach their potential, and some sources of emissions may not be easily covered through cap and trade. A solution to climate change will require a comprehensive approach, combining market mechanisms with more traditional standards and incentives.

Ultimately, cap-and-trade programs offer opportunities for the most cost-effective emissions reductions. Deciding on the most equitable method of initial allowance distribution, what trading rules should be, and other design features is challenging. Once established though, a well-designed cap-and-trade market is relatively easy to implement, can achieve emissions reductions goals in a cost-effective manner, and drives low-greenhouse gas innovation.

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## ENDNOTES

1. Carbon dioxide equivalent is a metric used to compare the amounts and effects of different greenhouse gases. It is determined by multiplying the emissions of a gas (by mass) by the gas' "global warming potential" (GWP), an index representing the combined effect of the length of time a given greenhouse gas remains in the atmosphere and its relative effectiveness in absorbing outgoing infrared radiation. CO<sub>2</sub> is the standard used to determine the GWPs of other gases. CO<sub>2</sub> has been assigned a 100-year GWP of 1 (i.e., the warming effect over a 100-year time frame relative to other gases). Another greenhouse gas, methane (CH<sub>4</sub>), is 21 times more potent than carbon dioxide, and nitrous oxide (N<sub>2</sub>O) is roughly 310 times more potent a GHG than CO<sub>2</sub>.
2. *An Emerging Market for the Environment: A Guide to Emissions Trading*. United Nations Environment Programme and United Nations Conference on Trade and Development, 2002, p 8.
3. Ellerman et al. *Emissions Trading in the U.S.: Experience, Lessons, and Considerations for Greenhouse Gases*. Pew Center on Global Climate Change, 2003.
4. See *Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California*. Recommendations of the Market Advisory Committee to the California Air Resources Board, June 2007, p. 99. Available online at [http://www.climatechange.ca.gov/documents/2007-06-29\\_MAC\\_FINAL\\_REPORT.PDF](http://www.climatechange.ca.gov/documents/2007-06-29_MAC_FINAL_REPORT.PDF)
5. For more on the respective advantages of upstream and downstream approaches to regulation, see *Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California*. Recommendations of the Market Advisory Committee to the California Air Resources Board, June 2007.
6. A load-based system is an example of a product-based cap-and-trade system, in which entities that sell products are responsible for the emissions associated with the products that they provide to customers, and demonstrate compliance with the cap. The term "load-based" is used because gas or electric demand is often referred to as load, and the entities meeting this demand are referred to as load-serving entities. In California and Oregon, where an emissions market is currently being discussed, "load-based" is used to describe a cap on the electricity retailers instead of the power generators, although electricity retailers and generators can be the same entities.
7. Ellerman et al. 2003.
8. "Additional" means that the emissions reductions achieved are in addition to those that would otherwise have occurred in the absence of the project under a business-as-usual scenario.
9. The CDM is designed to promote sustainable development in developing countries. It enables industrialized countries to invest in emission reduction projects in developing countries and to receive credits for reductions achieved. For more information, see the United Nations Framework Convention on Climate Change site at [http://unfccc.int/kyoto\\_protocol/mechanisms/clean\\_development\\_mechanism/items/2718.php](http://unfccc.int/kyoto_protocol/mechanisms/clean_development_mechanism/items/2718.php).
10. For additional information, see the RGGI final model rule, available online at [http://rggi.org/docs/model\\_rule\\_corrected\\_1\\_5\\_07.pdf](http://rggi.org/docs/model_rule_corrected_1_5_07.pdf).
11. Banking allows firms to better cope with uncertainties and unexpected circumstances that may lead to high allowances prices at a future date, and has proved important to the success of past emissions trading programs, such as the Acid Rain Program in the U.S. See Ellerman et al. 2003.

12. In California's AB 32 legislation, "safety valve" was also used to describe the provision that allows the Governor to delay compliance deadlines by a year under extraordinary circumstances. The Regional Greenhouse Gas Initiative uses price triggers to allow more offsets for compliance purposes.
13. For a detailed discussion on linkage considerations, see *Recommendations for Designing a Greenhouse Gas Cap-and-Trade System for California*. Recommendations of the Market Advisory Committee to the California Air Resources Board, June 2007, p. 69.
14. For a more in-depth discussion of allowance distribution, see *Greenhouse Gas Emissions Allowance Allocations*, prepared by the Pew Center on Global Climate Change, 2008. Available online at <http://www.pewclimate.org/brief/allocation>
15. Ellerman et al. 2003.
16. United Nations Environment Programme and United Nations Conference on Trade and Development, 2002.
17. For more on the relative merits of auctioning versus free allocation of allowances, see *Greenhouse Gas Emissions Allowance Allocations*, prepared by the Pew Center on Global Climate Change, 2008. Available online at <http://www.pewclimate.org/brief/allocation>
18. Specifically, RGGI will initially set standards for offset projects in five categories: forest sequestration, sulfur hexafluoride (SF<sub>6</sub>) leak prevention, landfill gas capture and destruction, methane capture from animal operations, and oil and gas efficiency improvements. RGGI will also allow international offset projects under certain circumstances. Sources will initially be allowed to cover up to 3.3% of their emissions using offset allowances, an amount on average equal to approximately half of a covered source's emissions reduction obligation. However, if average allowance prices rise above \$7 per ton, sources will be allowed to cover up to 5% of their emissions using offsets. If allowance prices rise above \$10 per ton, RGGI will allow sources to cover up to 10% of their emissions with offsets, and will allow offset projects outside the U.S. as well as allowances from the EU Emissions Trading Scheme and the Kyoto Protocol's Clean Development Mechanism.

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## CAP AND TRADE KEY TERMS GLOSSARY

**Additionality:** Emissions reductions achieved through a given project (or class of projects) over and above those that would otherwise have occurred in the absence of the project(s) under a business-as-usual scenario. Additionality is a criterion for approval of project-based activities (offsets) under the Clean Development Mechanism of the Kyoto Protocol as well as offset projects allowed for credit under other emissions trading programs.

**Allowance:** A government-issued authorization to emit a certain amount. In greenhouse gas markets, an allowance is commonly denominated as one ton of CO<sub>2</sub>e per year. See also "permit" and "credits (a.k.a. carbon credits)." The total number of allowances distributed to all entities in a cap and trade system is determined by the size of the overall cap on emissions.

**Allowance distribution:** The process by which emissions allowances are initially distributed under an emissions cap and trade system. Authorizations to emit can initially be distributed in a number of ways, either through some form of auction, free allocation, or some of both.

**Auctioning:** A method for distributing emission allowances in a cap and trade system whereby allowances are sold to the highest bidder. This method of distribution may be combined with other forms of allowance distribution.

**Banking:** The carry-over of unused allowances or offset credits from one compliance period to the next.

**Baseline:** The target, often the historical emissions from a designated past year, against which emission reduction goals are measured.

**Benchmarking:** An allowance allocation method in which allowances are distributed by setting a level of permitted emissions per unit of input or output.

**Borrowing:** A mechanism under a cap-and-trade program that allows covered entities to use allowances designated for a future compliance period to meet the requirements of the current compliance period. Borrowing may entail penalties to reflect a programmatic preference for near-term emissions reductions.

**Cap and Trade:** A cap-and-trade system sets an overall limit on emissions, requires entities subject to the system to hold sufficient allowances to cover their emissions, and provides broad flexibility in the means of compliance. Entities can comply by undertaking emission reduction projects at their covered facilities and/or by purchasing emission allowances (or credits) from the government or from other entities that have generated emission reductions in excess of their compliance obligations.

**Carbon Tax:** A surcharge on the carbon content of fossil fuels that aims to discourage their use and thereby reduce carbon dioxide emissions.

**Circuit Breaker:** A threshold or circumstance which, if met, would require suspending further tightening of the program until the circumstances change.

**Command and Control:** A system of regulation that prescribes emission limits and compliance methods on a facility-by-facility or source-by-source basis and that has been the traditional approach to reducing air pollution.

**Cost Containment Mechanisms:** Design elements in a cap-and-trade program that reduce the risk of high or volatile compliance costs for affected facilities or industries.

**Credits:** Credits can be distributed by the government for emission reductions achieved by offset projects or by achieving environmental performance beyond a regulatory standard.

**Downstream (source-based) System:** Also known as a source-based system, a downstream cap-and-trade system is one in which the point of regulation coincides with the point of emission of covered greenhouse gases. Examples of this approach include the Regional Greenhouse Gas Initiative's cap on power plant CO<sub>2</sub> emissions or the cap on large industrial and utility sources in the European Union's Emissions Trading Scheme.

**Emissions Cap:** A mandated constraint in a scheduled timeframe that puts a "ceiling" on the total amount of anthropogenic greenhouse gas emissions that can be released into the atmosphere.

**Emissions Trading:** The process or policy that allows the buying and selling of credits or allowances created under an emissions cap.

**Grandfathering:** A method by which emission allowances are freely distributed to entities covered under an emissions trading program based on historic emissions.

**Greenhouse Gases (GHGs):** Greenhouse gases include a wide variety of gases that trap heat near the Earth's surface, slowing its escape into space. Greenhouse gases include carbon dioxide, methane, nitrous oxide and water vapor and other gases. While greenhouse gases occur naturally in the atmosphere, human activities also result in additional greenhouse gas emissions. Humans have also manufactured some GHGs not found in nature (e.g., hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride) that slow the release of radiant energy into space.

**Linking:** Authorization by the regulator for entities covered under a cap and trade program to use allowances or offsets from a different jurisdiction's regulatory regime (such as another cap and trade program) for compliance purposes. Linking may expand opportunities for low-cost emission reductions, resulting in lower compliance costs.

**Offset:** Projects undertaken outside the coverage of a mandatory emissions reduction system for which the ownership of verifiable GHG emission reductions can be transferred and used by a regulated source to meet its emissions reduction obligation. If offsets are allowed in a cap and trade program, credits would be granted to an uncapped source for the net emissions reductions a project achieves. A capped source could then acquire these credits as a method of compliance under a cap.

**Point of Regulation:** The point of program enforcement, or where specific emitting entities covered under a cap and trade program are required to surrender enough allowances to match their actual emissions within a compliance period.

**Price Trigger:** A general term used to describe a price at which some measure will be taken to stabilize or lower allowance prices. For example, RGGI uses price triggers to expand the amount of offsets that can be used for compliance.

**Product- or Load-Based System:** A system in which the covered emitters are responsible for all the emissions associated with the generation of the electricity, natural gas, or other product that they provide to customers.

**Safety Valve:** Generally, an optional design element of a cap-and-trade program that seeks to provide cost containment by triggering certain actions if costs turn out to be higher than expected. One form of a safety valve is a price cap, which makes allowances available at some threshold price to ensure that the allowance price does not rise above a certain level.

**Scope:** The coverage of a cap and trade system, i.e., which sectors or emissions sources will be included.

**Source:** Any process or activity that results in the net release of greenhouse gases, aerosols, or precursors of greenhouse gases into the atmosphere.

**Updating:** A form of allowance allocation in which allocations are reviewed and changed over time and/or awarded on the basis of changing circumstances rather than historical data. For example, updating can be based on megawatt-hours generated or tons of a product manufactured.

**Upstream system:** An upstream approach to a cap-and-trade system places the point of regulation with the point of entry of fossil fuels into commerce within the covered region.

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**PEW COAL  
INITIATIVE STATE  
OPTIONS  
FEBRUARY 20, 2008**

# Coal Initiative Reports

*White Paper Series*

► **State Options for Low-Carbon Coal Policy**

Richard Cowart and Shanna Vale, *Regulatory Assistance Project*

Joshua Bushinsky and Pat Hogan, *Pew Center on Global Climate Change*

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# Overview

There is growing state-level interest in accelerating the development of low-carbon coal technologies, including carbon capture and storage (CCS). CCS is a suite of technologies that removes carbon dioxide from exhaust streams and “sequesters” it underground in geologic formations including depleted oil and gas wells and brine-filled “saline” aquifers.<sup>1</sup> For many states, addressing climate change is the primary motivation to pursue these low-carbon technologies. For others, the primary motivation is to be able to continue to take advantage of their abundant coal resources in the future, when carbon dioxide emissions are expected to be constrained.

Many states are taking actions to reduce their greenhouse gas (GHG) emissions. They have adopted greenhouse gas emission targets and made commitments to low-carbon energy, and believe that these policies will result in job creation, air quality improvements, and reliable low-cost energy supplies. As states inventory their GHG emission sources, they recognize that coal-based electric power is one of the largest sources of carbon dioxide emissions, and that coal is likely to continue to provide a significant portion of electric power for the foreseeable future. The costs, scale of change, and security issues involved in moving away from the current, GHG-intensive U.S. power system limit the speed and degree to which non-coal generation technologies can be deployed. Consequently, given the need to rapidly reduce GHG emissions to address climate change, the carbon dioxide (CO<sub>2</sub>) emissions from using coal to provide electric power need to be curtailed. CCS is the critical technology for doing this. Many states have put incentives in place to advance coal technology broadly; and a number of states, including Colorado, Montana, Wyoming and several Midwestern states are specifically focusing on CCS.

This paper provides an overview of options for states to encourage the deployment of carbon capture and sequestration. It describes actions—including legislation, regulations, and incentives—throughout the country. It also reviews in greater detail the range of policies available to state Public Utility Commissions for advancing deployment of CCS.

In reviewing the various actions taken by states to reduce emissions and promote low-carbon technologies for electricity production, several key lessons emerge. Many states are adopting meaningful incentives for integrated gasification combined cycle (IGCC) power plants, and, as a handful of states are beginning to demonstrate, a number of these incentives can apply to CCS as well. States also have a number of authorities relevant to advancement of clean coal power, particularly within the domain of state public utility commissions (PUCs). State commissions have a wide array of policy options available to them in pursuing this goal, and will play a crucial role in determining the speed and effectiveness with which such technologies are deployed.

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<sup>1</sup> Saline aquifers are geologic storage reservoirs containing salt water. For sequestration purposes, ideal aquifers will be located at least 3000 feet below the ground surface, have several hundred feet of porous and permeable sands, and be overlain by at least one, and preferably more, thick and continuous seals—impermeable rock layers that keep the CO<sub>2</sub> trapped. Under these conditions, CO<sub>2</sub> would be stored very securely and efficiently, with the density and physical properties of a liquid due to the reservoir’s depth.

Finally, while states face extra challenges and limitations in promoting low-carbon coal technologies that do not apply at the federal level, states also enjoy major advantages, such as their direct jurisdiction over many critical power plant issues—including siting and retail ratemaking—that federal agencies do not possess. Regardless of the final form of federal greenhouse gas rules, states have the chance to gain experience as first movers and policy innovators, and will play an important role in shaping a low-carbon future. Although national policy is essential, a proactive approach by state policymakers and regulators to drive CCS can reduce future compliance costs, speed the required technological developments, and pave the way for future national policy.

# I. Introduction: State-Level Opportunities and Limitations

Although national policy is essential to achieve significant reductions in emissions from coal-fueled power plants, a proactive approach by states can reduce costs of compliance with future federal policies, speed the required technological developments, and pave the way for a national policy. In particular, state and federal efforts could be complementary and mutually reinforcing. For example, federal financial incentives combined with favorable public utility commission (PUC) treatment could be much more effective in advancing carbon capture and storage (CCS) than either initiative on its own. Further, states for which climate change, coal, or both are especially important could play an important role in speeding technological advance through support for CCS demonstration projects.

CCS demonstrations are needed to prove new technologies, lower the costs of existing and new technologies, and establish the viability of widespread, commercial-scale applications. States can play an important enabling role for such demonstrations and thereby accelerate the commercialization of CCS technologies. Decisions by public utility commissions in particular will be critical in determining how quickly these technologies penetrate a traditionally risk-averse industry. Utility commissions that allow cost recovery and create other incentives for low-carbon coal technologies may reduce their utilities' compliance obligations under future carbon constraints, help their industries provide low-carbon power to those states demanding it, and make progress towards their own GHG emission goals. Finally, states can assist in resolving institutional issues, including working out legal concerns surrounding CO<sub>2</sub> liability and siting protocols.

Technologies that can separate, capture, and store carbon from coal-fired power plants are in the research, deployment, and commercialization stages. However, the requisite suite of technologies has not yet been demonstrated as an integrated system at a commercial-scale coal-fired electric power plant. Use of high-efficiency designs—for example, ultra critical, super ultra critical, integrated gasification combined cycle (IGCC)—for new plants or repowering of existing plants offers incremental reductions in carbon dioxide emissions per unit of electricity generation. This will be important due to the efficiency losses entailed by CCS technology. Commercial power plant technologies exist that can provide efficiency rates well above those of most coal power plants currently in operation in the United States. Yet while high efficiency technologies should be used where feasible, they alone cannot adequately address carbon emissions from coal power.

While the federal government must ultimately provide the incentives and infrastructure necessary for deployment of low-carbon coal power, and while it is important to create a national strategy to develop the most promising innovations in a timely and cost-effective manner, the states also have important roles to play in testing policy approaches and spurring early technology improvements. The challenges and opportunities faced by states for creating a favorable policy environment for low-carbon coal power differ from the national situation. Hurdles faced at the state level that do not exist or are less severe at the national level include opportunities for emissions leakage to occur, interstate commerce issues in power markets and transport for sequestration, and perhaps most significantly, resource constraints. A large-scale, national CCS initiative would be better equipped to implement a long-range roadmap of CCS technology deployment, and to fund

a suite of plants that could test CCS in a variety of configurations. However, with or without such a national program, the states enjoy major advantages and are essential actors in developing CCS on the ground because they have direct jurisdiction over many critical power plant issues.

States have jurisdiction in a number of key areas that enable them to require or promote GHG emission reductions from coal-based power. In particular, state agencies can make decisions about utility cost recovery, power plant siting, utility power portfolios and new build and power purchase decisions, and technology choices. States have unique authority over many aspects of electricity supply through their public utility commissions. Among other roles, these commissions are ultimately responsible for ensuring the supply of low-cost, reliable power to consumers, as well as achieving other policy goals demanded by legislatures and the public.

In addition, states can regulate air emissions, including greenhouse gas emissions, from coal-fueled power plants; they can set greenhouse gas emission standards for these facilities; and they determine whether facilities can receive operating permits. States can set rules for underground injection of carbon dioxide as long as their rules are consistent with any federal regulations, and through their oversight of the oil and gas industry states set the rules for the use of carbon dioxide (CO<sub>2</sub>) in enhanced oil recovery (EOR). States can use their powers of taxation to favor particular technology choices and/or environmental performance, and can use their budgets to fund demonstration projects. Finally, states are well-positioned to engage and educate the public on CCS issues. Such outreach to local stakeholders can help alleviate public concerns on the health impacts and liability for any catastrophic release of CO<sub>2</sub>. Acceptance of CCS by the public will be a critical determinant of the viability of this approach to address GHG emissions, so public education efforts by states are an important component to moving the nation towards a national CCS policy.

## **ARE STATE-LEVEL CCS INITIATIVES VULNERABLE TO “LEAKAGE”?**

Those proposing state-level policies to reduce emissions from coal plants have to address the problem of “leakage,” which is a much more significant challenge for state programs than for uniform national regulations. “Leakage” here refers to an increase in emissions outside of a policy arena due to reductions required by the policy. Leakage can occur due to plants leaving, or reducing operations in, a state or region covered by a policy, and increasing operations and emissions outside the region. It can also result from electricity retailers choosing to increase purchases from plants not subject to the cap or standards. Such leakage is primarily due to rising costs of electricity generation within the state or region associated with the policy. Under a national-level policy such as a cap-and-trade program or an emission or technology standard, leakage is greatly reduced because it is encountered only insofar as electricity is imported from abroad.

Though a concern, states do have several options for addressing leakage, and policymakers must carefully consider both the risk of leakage and states’ options for managing it. First, leakage risk is a function of program cost. What drives emissions leakage is the cost of a policy, and whether firms can avoid that cost by shifting production out of state. Thus states attempting to minimize leakage must first of all minimize costs. Among state options for addressing climate change, greenhouse gas cap-and-trade programs have relatively low leakage risk, because such programs minimize costs relative to more traditional command-and-control programs. Command-and-control policies are therefore more likely to drive leakage than cap and trade. In addition, design choices made in the development of cap-and-trade programs (such as the inclusion of banking and other flexibility mechanisms) can further reduce costs.<sup>2</sup>

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<sup>2</sup> “Climate Change 101: Cap and Trade.” Pew Center on Global Climate Change, forthcoming.

Second, energy efficiency is a key strategy for minimizing leakage. Energy efficiency reduces electricity demand and therefore program costs, thereby minimizing the potential for leakage. According to a report evaluating leakage potential under the Regional Greenhouse Gas Initiative (a multi-state GHG cap-and-trade agreement), scenarios which included aggressive energy efficiency policies and measures showed significantly lower costs to consumers, lower power costs generally, and less leakage than those without such policies.<sup>3</sup> Third, a number of policies can address emissions without directly capping them. For example, states can address the carbon emissions of imported power directly, by covering imported power in a cap-and-trade program, or setting emission performance standards that cover imports (perhaps by setting such standards on load-serving entities in a state or region). Finally, it is important to note that the greater program's geographic coverage, the lower the leakage risk. Leakage risk is thus lower for national programs than it is for regional programs, and lower for regional programs than for individual state programs.

Finally, states do have the authority to prevent leakage and address the GHG emissions from electricity imports as long as they do so in a way that does not discriminate against imports in favor of in-state power.<sup>4</sup> This restriction significantly limits the policy options available to states to control leakage of emissions outside their borders. Technical issues also arise in attempting to address the greenhouse gas emissions from imported power. For example, it is often difficult to trace the origins of purchased power in order to determine the emissions initially associated with the generation of that power. Doing so requires sophisticated reporting and tracking systems.

In addition to the challenges of addressing power imports, states have significantly fewer financial resources to encourage CCS than the federal government. Since state taxes and budgets are generally much lower than federal ones, state-level tax incentives and other subsidies in general provide a much smaller financial benefit to technology developers than federal tax credits or other subsidies. In addition, most states face severe budget constraints resulting from lower levels of tax collection and balanced budget requirements.

However, states have other tools at their disposal to create incentives that the federal government does not. Some coal-dependent states might readily devote substantial resources to demonstrating a technology that is critical to the future of their coal industries. One sees this phenomenon already, as a number of states are adopting meaningful incentives for integrated gasification combined cycle (IGCC) power plants. Many of these incentives could be applied to CCS as well. For instance, states have the option of streamlining permitting and siting processes to facilitate CCS development, and several have created Clean Coal Programs or provided state funding through other mechanisms.<sup>5</sup> States' authorities provide opportunities for experimentation at the state level in the absence of federal policy and for raising the bar once federal climate policy is in place. The challenge is the difficulty of coordinating state actions and the potential for a patchwork quilt of different policies. The potential for complementary and mutually reinforcing state and federal efforts is vast.

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<sup>3</sup> Recommendations and leakage projections from "Potential Emissions Leakage and the Regional Greenhouse Gas Initiative (RGGI): Evaluating Market Dynamics, Monitoring Options, and Possible Mitigation Mechanisms." Initial Report of the RGGI Emissions Leakage Multi-State Staff Working Group to the RGGI Agency Heads, March 2007. Full report available online at [http://rggi.org/docs/il\\_report\\_final\\_3\\_14\\_07.pdf](http://rggi.org/docs/il_report_final_3_14_07.pdf).

<sup>4</sup> Under the Interstate Commerce Clause of the US constitution, states are constrained in the manner in which they can place limitations on the sale of goods and services across state lines, particularly if the limitation discriminates against out-of-state goods whether explicitly or implicitly. Limitations have been deemed permissible when the law in question is necessary to promote and protect the environmental and public health of the state's inhabitants. Thus, the courts are often faced with a balancing test that asks whether the burden on commerce is greater than the environmental and/or public health benefits of the state law. Legal precedence is blurred on the issue, as both sides of the debate can point to rulings in their favor. Legal experts agree that policy makers need to very carefully consider the language and intentions of any state or regional initiative to address leakage. Therefore, a policy that appears least discriminatory to out-of-region emitters is the most legally attractive.

<sup>5</sup> Colorado (Clean Energy Development Fund), Illinois (Office of Coal Development, Illinois Coal Demonstration Program, Illinois Coal Revival Program and others), Kansas HB 2429 (energy enhancement and environmental reclamation fund), Minnesota 216B.1694, Minn. Stat. 2006 (Renewable Development Account), New York (Advanced Clean Coal Power Plant Initiative), Ohio § 1551.32 (Ohio Coal Development Office), West Virginia SB631 (West Virginia Clean Coal Technology Council), Wyoming (Wyoming Infrastructure Authority).

## II. State-Level Low-Carbon Coal Policy Options and Lessons Learned

This section reviews the policy options available to states to promote GHG reductions in the power sector, including emissions from coal-fired power plants, and briefly summarizes current state initiatives to support, encourage, and facilitate deployment of CCS. Some of the policy options reviewed here, particularly generator standards, correspond to those analyzed in the Pew Center's companion papers on national policy, and this paper takes into account additional considerations that obtain if analogous policies are applied at the state level.<sup>6</sup> Other policies discussed below, such as feebates, are offered as additional options available to policymakers at both the state and federal levels. For the most part, this section focuses on policies that are not specifically within the domain of public utility commissions; the specific regulatory steps state commissions can take to promote low-carbon coal power are discussed in section III.

### A. POLICY OPTIONS

**1) Generator Performance Standards.** This approach is modeled after the New Source Performance Standard (NSPS) regulations under the federal Clean Air Act. Under this approach, each coal- or fossil-fueled generation unit or plant must meet a standard, for example, a maximum annual amount of CO<sub>2</sub> emissions or a maximum rate in CO<sub>2</sub>/kWh. Traditionally, such standards have initially applied only to new plants, with existing plants required to meet the standard only as of some future date or event.

If set low enough, CO<sub>2</sub> emission standards would have the effect of forcing coal-fueled generators to shift to low-carbon generation options such as renewables, nuclear power, or CCS systems. Such performance standards have been adopted or proposed in a number of states.<sup>7</sup>

*State-level considerations.* Performance standards fit relatively easily into existing state processes for permitting and monitoring new facilities. However, such standards have the potential to drive leakage, because a plant owner may choose to locate in another state where similar standards do not apply. One way to reduce leakage under a performance standard approach is to bar regulated electricity retailers (load serving entities) from entering long-term purchase contracts with generators that do not meet a specified CO<sub>2</sub> performance standard. However, this type of requirement on contracts may not be sufficient, in part because power contract arrangements have shifted in recent years. Utilities are increasingly contracting for power not associated with a specific plant in order to reduce their risk and to avoid obligating specific generation to specific demand. State policies that require contracts to specify individual generators as sources could decrease provider flexibility and put

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<sup>6</sup> Forthcoming.

<sup>7</sup> California: CA AB 1368 (2006); Montana: MT HB 25 (2007); Oregon: OR Rev. Stat. § 469.503 (2005); Washington: WA SB 6001 (2007); Wisconsin: Considered in Department of Natural Resources and Public Service Commission of Wisconsin, *Integrated Gasification Combined Cycle Draft Report: Benefits, Costs, and Prospects for Future Use in Wisconsin*, p. 56 (June 2006) [hereinafter Wis. Draft Report].

upward pressure on power prices. State policies that set GHG standards will have to respond to this changing contract environment in order to reduce emissions and minimize impacts on electricity prices.

*Relevant State Experience.* While generator performance standards for conventional pollutants are widespread, such standards for CO<sub>2</sub> have been imposed in just a few jurisdictions, including Washington, Montana, Oregon, and Massachusetts.

Oregon's statute requires its energy facility siting council to establish carbon dioxide emissions standards<sup>8</sup> for new plants but allows the use of a one-time payment for offsets for a portion of emissions as one compliance method.<sup>9</sup> Washington's statute is similar to Oregon's.<sup>10</sup>

In May 2007, Montana adopted a CO<sub>2</sub> emissions performance standard for electric generating units in the state with the enactment of HB 25. The bill prohibits the state Public Utility Commission from approving electric generating units primarily fueled by coal unless a minimum of 50 percent of the CO<sub>2</sub> produced by the facility is captured and permanently geologically sequestered. The standard applies only to electric generating units constructed after January 1, 2007. A separate bill introduced in the Montana legislature proposes the strongest emissions performance standard in terms of advancing CCS. Montana House Bill 282 would require the Board of Environmental Review to apply requirements to any construction permit applications filed for coal-fired electrical generation facilities or synthetic fuel facilities for (1) the capture of carbon dioxide at the site, (2) the transportation of carbon dioxide, if necessary, and (3) the permanent storage of carbon dioxide in a geologic formation or verification that 100 percent of the carbon dioxide emissions from the proposed facility will be offset.<sup>11</sup>

An approach akin to a generator performance standard has also been proposed in Iowa. It would require new power plants to achieve carbon neutrality—meaning that the facility could not contribute to any increase in statewide emissions of greenhouse gases.<sup>12</sup> The applicant for a new power plant would have to obtain pre-construction approval of its carbon-neutral plan, which could rely upon energy conservation, demand-side management, renewables, or carbon sequestration.<sup>13</sup>

**2) Retailer Standards.** The obligation to meet a carbon or CCS Emissions Performance Standard (EPS) could be placed on the entities that sell electricity to end users (the load serving entities, or retailers). This approach is modeled after Renewable Portfolio Standards (RPS). Retailer standards to encourage CCS could take a variety of forms, including:

- a. Requiring that an increasing percentage of electricity sold come from sources incorporating CCS;
- b. Setting a declining CO<sub>2</sub>/kWh standard for the entire portfolio with the rate starting close to the current average for the state;

<sup>8</sup> See Oregon Revised Statutes § 469.503 (2005).

<sup>9</sup> See *id.* at § 469.503(2)(b). By permitting the use of offsets to counterbalance the higher emission rates of conventional coal units, the Oregon approach does not bar new PC additions or advance CCS alternatives as bluntly as the California standard described in the next section. Oregon's legislature has also recently considered a "carbon fee." HB 3261, 74th Leg., Reg. Session (Or. 2007).

<sup>10</sup> Washington Revised Code § 80.70.020(4) (2004); Wash. Admin. Code § 173.407.020 et seq. (2004).

<sup>11</sup> Montana HB 282, 60th Leg., Reg. Sess. (Mt. 2007) (amending MCA § 75-2-211(3)(k)).

<sup>12</sup> See Iowa S.F. 391, 82nd General Assembly, Regular Session (Ia. 2007).

<sup>13</sup> See *id.*

- c. Requiring an increasing specified percent of electricity sold to meet a CO<sub>2</sub>/kWh rate achievable only by coal-fueled units that are using CCS;
- d. Requiring new long-term power purchase contracts to meet a specified CO<sub>2</sub>/kWh standard

Under the first three of these approaches retailers would be allowed to trade credits among themselves to meet the standard, as is practiced under many state RPSs.

*State-level considerations.* This approach can avoid leakage, because it can cover imported electricity. It also fits relatively easily into existing state processes for regulating load serving entities, including use of RPSs, demand side management programs, efficiency portfolio standards, and resource planning. A load-serving entity also has more options than an electric generator to reduce GHG emissions, providing some advantages over a generator standards approach. A CCS-specific requirement can be administered much like other special tiers contained in various state RPS rules. CCS credits can be created for each MWh of generation, and then acquired by complying retailers independently from power sales and physical delivery paths on the grid.

Applying a GHG performance standard across an entire power supply portfolio is possible, but is not as straightforward. There are substantial challenges to associating emissions at the point of generation to particular power sales—an attribution necessary to implement an effective retailer standard approach to CO<sub>2</sub> emissions. To determine whether a load-serving entity is in compliance, it is necessary to determine the GHG emissions associated with the electricity it purchases. If a load-serving entity can purchase electricity from any seller, a system capable of tracking emissions from the point of generation to the point of sale to a load-serving entity is needed. The Northeast's NEPOOL GIS system is capable of tracking power plant emissions, and other power pools are developing similar systems, including the PJM power pool in the Mid-Atlantic. These software programs are capable of assigning environmental attributes, including carbon content, to each MWh moving through the system, but it would take a deliberate public effort to do so.<sup>14</sup>

*Relevant State Experience.* California now requires electricity retailers entering into new, long-term contracts to meet a CO<sub>2</sub> /kWh emission rate typical of natural gas-based combined cycle plants. The lack of a real-time tracking system in the western states that determines CO<sub>2</sub> emission rates of purchased electricity and its associated generators is one of the major technical barriers to implementation of California's program as originally envisioned. As a result, California now requires that major new or renewed baseload electricity contracts of five years or more be with generators that can meet a standard of 1,100 pounds of CO<sub>2</sub> per megawatt-hour.<sup>15</sup> For states interested in incentivizing low-carbon coal imports, GHG emission requirements on long-term contracts may not be sufficient, in part because power contract arrangements have shifted. As noted above, utilities are increasingly contracting for power not associated with a specific plant, so state policies that set GHG standards will have to respond to the changing contract environment, and emission tracking systems will become increasingly important to prevent an increase in power with unspecified origins.

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<sup>14</sup> Such systems also need rules to assign average emission rates to imports or other power sources outside of the measured system.

<sup>15</sup> "PUC Sets GHG Emissions Performance Standard to Help Mitigate Climate Change." California Public Utilities Commission news release, January 25th, 2007. Available online at [http://docs.cpuc.ca.gov/published/News\\_release/63997.htm](http://docs.cpuc.ca.gov/published/News_release/63997.htm). Accessed December 13, 2007.

A recently enacted proposal in Washington takes an approach similar to California's.<sup>16</sup> It differs from California's statute in that it requires the state's Department of Ecology and its Energy Facility Site Evaluation Council to establish regulations governing the use of geological carbon sequestration to satisfy the standard.<sup>17</sup>

A growing number of U.S. states have created Renewable Portfolio Standards (RPSs) that require an increasing fraction of each utility's power supply to come from environmentally preferred sources. These RPSs generally operate as retailer standards, with load-serving entities required to supply a specific percent of electricity from sources classified as renewable.

Many states have tailored their Renewable Portfolio Standards to encourage investment in particular types of renewable energy.<sup>18</sup> New Mexico mandates that wind and solar each provide at least 20 percent of the total renewable energy supplied by IOUs.<sup>19</sup> In April 2007 the Maryland Public Service Commission bolstered the state's RPS goal an additional two percent by 2022 to be supplied exclusively by solar power.<sup>20</sup> North Carolina has small carve-outs for electric power sourced from both solar and swine waste.<sup>21</sup>

These observations raise the question of whether it is better to keep renewable mandates and CO<sub>2</sub> or CCS mandates separate or to integrate them. Clearly the answer will depend on a state's objectives. Under an integrated approach, both CCS and renewables could be considered low-carbon energy sources and the retailer would have an obligation to supply to its customers a certain percentage of low-carbon energy, with CCS as one option. To accomplish this, the RPS would be converted to a "Low Carbon Standard" that would include fossil generation with an adequate degree of sequestration. Pennsylvania has taken a similar approach via its Alternative Energy Portfolio Standard (AEPS). Pennsylvania's AEPS includes IGCC and coal waste-fueled plants, although it does not include CCS.

A CO<sub>2</sub> emission standard (Low Carbon Portfolio Standard) might be attractive in a highly coal-dependent state although, depending on the relative costs of CCS and renewables, it might incentivize the latter less than a traditional RPS. If the primary objective is to reduce GHG emissions, a low-carbon standard placed on retailers might make sense, particularly in heavily coal-dependent regions. However, there are many reasons for encouraging renewables other than climate considerations, such as economic development and air quality. Over half the U.S. states now have RPSs. Many of these states have successfully driven significant investment in renewables, and as noted above, many states have specific set-asides for particular types of renewable energy (e.g., biomass or solar). In a similar fashion, CCS could be included as a separate obligation rather than integrated into an existing RPS. Under such an approach, a specific set-aside, or percent of CCS-based electricity, would be required and added as a separate obligation on load-serving entities, without compromising existing renewable obligations.

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<sup>16</sup> The proposal also provides a two percent higher rate of return for investments in efficiency. See Washington SB 6001, 60th Leg., Regular Session (Wa. 2007).

<sup>17</sup> See *id.* at § 5(11) (These regulations must include provisions for: financial assurance of effectiveness, time of commencement of sequestration, monitoring and verification, penalties for failure, purchasing of offsets in the case of failures, and public notice and comments on the plan.).

<sup>18</sup> In addition to those states listed in the text, other states with carve-out requirements for solar or other renewable technologies include Colorado, Delaware, Nevada, New Jersey, and Pennsylvania.

<sup>19</sup> [http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive\\_Code=NM05R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1](http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive_Code=NM05R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1)

<sup>20</sup> [http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive\\_Code=MD05R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1](http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive_Code=MD05R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1)

<sup>21</sup> [http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive\\_Code=NC09R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1](http://www.dsireusa.org/library/includes/incentivesearch.cfm?Incentive_Code=NC09R&Search=TableType&type=RPS&CurrentPageID=7&EE=1&RE=1)

**3) Cap and Trade.** This approach is modeled after the U.S. Acid Rain Program and other systems such as the European Union Emissions Trading Scheme. Under a traditional cap-and-trade approach, the total annual CO<sub>2</sub> emissions from all sources covered by the program must be less than a specified number of tons. Under the Acid Rain Program for sulfur dioxide (SO<sub>2</sub>), the obligation to comply with the cap has been placed on the generators. It would, however, be possible to place the obligation on retailers (load-serving entities) or “first deliverers”<sup>22</sup> in areas where emission tracking systems are sufficiently accurate. A cap-and-trade program targeted at utilities could be a stand-alone program or could be incorporated into an economy-wide cap and trade program. A cap could cover all fossil-fuel plants, all coal-fired units, all units above a certain size, or units with emission levels above a specified rate.

*State-level considerations.* State-level generator-based cap-and trade programs for GHG emissions fit relatively easily into existing programs for capping and trading NO<sub>x</sub> and SO<sub>2</sub>. However, under this type of system, load-serving entities might import electricity from states where generators are not subject to a cap. The significance of this issue varies from region to region. For example, such imports are of particular concern in California, where imported power can account for 50 percent of the state’s annual electric sector CO<sub>2</sub> emissions. In part to address leakage, the California Public Utilities Commission is considering a load-based or first-deliverer-based cap-and-trade program.<sup>23</sup> Oregon is considering adopting a load-based standard approach.<sup>24</sup>

The northeast Regional Greenhouse Gas Initiative (RGGI) is a generator-based cap-and-trade program that will enter into effect in ten northeastern states in 2009. Although RGGI has identified leakage as an issue, thus far RGGI participants have agreed only to track imports more carefully and leave open the possibility of taking corrective actions should imports increase. In March 2007, a multi-state staff working group issued its initial report on addressing potential emissions leakage under RGGI. Under the “middle-of-the road” modeling scenario used as the primary basis for estimating the projected impacts of RGGI, cumulative emissions leakage under the program is estimated to be 27% of net CO<sub>2</sub> emissions reductions achieved through 2015. The report highlights the importance of being able to track and verify the environmental attributes of all power used in the RGGI states, and includes a number of recommendations for the establishment of a robust monitoring and verification system to help track these attributes and possible emissions leakage. The report also recommends a number of policy options states might pursue in order to address leakage, including policies that reduce electricity demand, others that directly address carbon emissions without capping them (such as carbon adders or emissions rate mechanisms) and discussion of an emissions cap on load-serving entities.<sup>25</sup>

**4) Feebates.** A feebate is a policy that provides “rebates” to environmentally or otherwise high-performing technologies, funded by fees on technologies that perform less well. In the context of electricity climate policy, this would mean changing behavior by simultaneously discouraging investment in carbon-intensive

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<sup>22</sup> The term “first deliverer” refers to the entity that first sells power in a state from an out-of-state generation source. The first deliverer may be a generator, power marketer, or load serving entity.

<sup>23</sup> California Public Utilities Commission Docket No. R06 04 009

<sup>24</sup> Schwartz, Lisa, Senior Analyst, Oregon Public Utility Commission, “Oregon on IGCC-Related Issues,” presented at Pacificorp IGCC Working Group Meeting at 3 (September 14, 2006).

<sup>25</sup> Recommendations and leakage projections from “Potential Emissions Leakage and the Regional Greenhouse Gas Initiative (RGGI): Evaluating Market Dynamics, Monitoring Options, and Possible Mitigation Mechanisms.” Initial Report of the RGGI Emissions Leakage Multi-State Staff Working Group to the RGGI Agency Heads, March 2007. Full report available online at [http://rggi.org/docs/il\\_report\\_final\\_3\\_14\\_07.pdf](http://rggi.org/docs/il_report_final_3_14_07.pdf). The Integrated Planning Model (IPM) runs and leakage projections are also available at <http://rggi.org/documents.htm>, dated October 11, 2006.

electricity generation while providing a financial incentive and support to low-carbon projects.<sup>26</sup> One option would be for fees to be levied on a per-kWh-of-electricity-generated basis at coal-fueled generation plants. Funds generated would be used to upgrade existing plants to include CCS equipment, or build new units incorporating such technologies.<sup>27</sup> At least initially, there are likely to be many more entities subject to the fee than CCS demos eligible for the rebate. Thus the fee itself would provide a modest disincentive to using coal without CCS and a modest incentive to use alternatives to coal, and the rebates would provide a more powerful incentive to use CCS.

*State-level considerations:* The feebate would function similarly at the state and federal level, except for the potential to shift non-CCS coal power out-of-state. If the fee were relatively modest (at a level only sufficient to create enough funds for a few demonstration units) it would be unlikely to have this effect. However, even a modest fee on electricity generated would give load-serving entities some incentive to purchase electricity from plants not subject to the fee. If those plants were non-emitting, that would reduce GHG emissions. If those plants were emitting, and imports were not covered by the fee, then the state would collect fewer fees and be able to fund fewer projects.

Some coal-dependent states might be willing to devote substantial resources to demonstrating a technology that is critical to the future of coal. One sees this phenomenon already, as a number of states are adopting meaningful incentives for IGCC, and similar incentives could be applied to CCS as well. In addition, some coal-fueled plants may be interested in hosting demonstration projects in order to reap the benefits of being a “first mover.” Such plants might support a state-imposed fee for the purpose of supporting CCS demonstrations.

*Relevant State Experience.* While no state has instituted a feebate system devoted to the advancement of CCS, almost half the states have funds, often called “public benefit funds,” or “system benefit funds,” dedicated to supporting energy efficiency and renewable energy projects. These funds serve similar functions to, and could serve as potential models for, such a feebate approach. The necessary funds are collected either through a small charge on the bill of every electric customer or through specified contributions from utilities. These funds often support specific, high-priority energy projects, including R&D&D efforts, to help build more sustainable energy and power systems. Publicly managed clean energy funds and state agencies from 18 of these states have formed the Clean Energy States Alliance to coordinate public benefit fund investments in renewable energy. The Clean Energy States Alliance is composed of funds in Alaska, Arizona, California, Colorado, Connecticut, Illinois, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, and Wisconsin. To date, no state fund has focused on providing financial support to CCS projects, but this is an application that would be consistent with the overall thrust and history of the mechanism, particularly if funds were collected and administered so as not to reduce support for the smaller-scale renewable and distributed efficiency and power projects

**5) Combined Approaches.** Under a combined approach, one or more of the above policies could be implemented simultaneously. Some possible combined approaches include combining a feebate with a generator performance standard, or incorporating a feebate into a cap-and-trade system. The combination of a feebate with a generator performance standard is intended to overcome a weakness of standard-based approaches as they have operated to date; namely, that generator standards have generally only applied to new units,

<sup>26</sup> Feebates have been proposed in the fuel economy context, where fees would be imposed on the sale of vehicles with low fuel economy and the funds generated would be used to provide rebates to purchasers of vehicles with high fuel economy, thus lowering the purchase price

<sup>27</sup> See the accompanying papers, Vello, 2006 and Pena and Rubin, 2006 for a detailed explanation of how such an approach would work at a national level.

with the expectation that existing plants would be replaced. However, as the life of existing units has been extended, the new standards have failed to apply to all plants. A fee added to a generator standard approach could be structured to strongly discourage life-extension of plants that fail to install CCS.

## B. CURRENT STATE GHG REDUCTION AND CCS DEPLOYMENT INITIATIVES

A number of states are using their numerous relevant authorities to reduce greenhouse gas emissions or to encourage CCS demonstrations. These initiatives are briefly reviewed by topic below. Further details of state initiatives are provided on a state-by-state basis in the appendices.

### 1. Key efforts to reduce power sector GHG emissions specifically<sup>28</sup> include:

- Under the northeast Regional Greenhouse Gas Initiative (RGGI) ten states—Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont—have agreed to reduce CO<sub>2</sub> emissions from power plants in the region. Using a cap-and-trade system, the states have agreed to return emissions to current levels by 2009 and to reduce emissions 10 percent by 2016. The states are in the state-by-state process of adopting an agreed-upon model rule for implementing the program. In the absence of federal policy, such a regional approach is relatively more efficient and effective than a single-state effort.
- California's AB 32, The Global Warming Solutions Act of 2006, sets a greenhouse gas target for the state that reaches 1990 levels by 2020. The state will need to address emissions from the power sector, including imports, in order to meet the law's requirements. The California Public Utilities Commission (CPUC) and the California Energy commissions jointly initiated proceedings to consider a "load-based" cap on greenhouse gas emissions from investor owned utilities. This proceeding is also considering a "first deliverer" approach in which the generator is responsible for the emissions from power produced in-state and the importer is responsible for the emissions associated with the generation of the power they import.
- The Western Climate Initiative was established in February 2007 by the governors of Arizona, California, New Mexico, Oregon, and Washington as a joint effort to reduce greenhouse gas emissions and address climate change. The states of Montana and Utah, as well as the Canadian Provinces of British Columbia and Manitoba, joined the initiative later in 2007. The member states and provinces set a regional emissions target of 15% below 2005 emissions levels by 2020 and have committed to design a market-based system by August 2008—such as a cap-and-trade program covering multiple economic sectors—to aid in meeting the target. Members will also set up an emissions registry and tracking system. The initiative builds on work already undertaken individually by several of the participating states.
- In November 2007, six states and one Canadian Province established the Midwestern Regional Greenhouse Gas Reduction Accord. Under the Accord, members agree to establish regional greenhouse gas reduction targets, including a long-term target of 60 to 80 percent below current emissions levels, and develop a multi-sector cap-and-trade system to help meet the targets. Participants will also establish

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<sup>28</sup> In addition to the numerous state policies to promote energy efficiency, renewable power, combined heat and power, and other resources that have multiple goals, including the reduction of GHGs.

a greenhouse gas emissions reductions tracking system and implement other policies, such as a low-carbon fuel standard, to aid in reducing emissions. The Governors of Illinois, Iowa, Kansas, Michigan, Minnesota, and Wisconsin, as well as the Premier of the Canadian Province of Manitoba, signed the Accord as full participants, while the Governors of Indiana, Ohio, and South Dakota joined the agreement as observers. According to the agreement, the Accord will be fully implemented by mid-2010.

- Both Oregon and Washington have carbon offset requirements for new power plants.<sup>29</sup> Oregon requires new power plants to offset approximately 17 percent of anticipated CO<sub>2</sub> emissions or pay an up-front, one-time fee per ton of carbon dioxide emitted, while Washington requires new power plants to offset approximately 20 percent of anticipated CO<sub>2</sub> emissions through third-party mitigation, carbon credit purchase, or investment in mitigation projects such as cogeneration.

## 2. Key efforts to require, or provide incentives for, CCS include:

- California is pursuing a number of policies that may drive low-carbon coal power investments in neighboring states that export coal power to California. California law SB 1368 sets a GHG emissions performance standard at the CO<sub>2</sub>/kWh emission rate typical of natural gas combined cycle plants for all new major, baseload, long-term electricity contracts. This standard has the effect of discouraging the use of coal without CCS. Utilities can comply with the standard by purchasing power from coal-fired generators in, or exporting into, the state that capture and sequester approximately 40 percent of their carbon dioxide emissions. Or they can comply by buying power from gas-fired or other low-emitting generators. While California imports less than 20 percent of its electricity from out-of-state, 50 percent of the state's GHG emissions associated with electricity are from imports, mostly from coal-fueled plants. The state's imported electricity comes from western states where a number of new coal power plants are scheduled for construction. SB 1368 provides some incentive to design and equip these new plants with CCS.
- In November 2007, the Governors of 11 midwestern states and the Premier of one Canadian province individually adopted all or portions of an Energy Security and Climate Stewardship Platform for the Midwest. The state of Missouri later adopted portions of the agreement as well.<sup>30</sup> By endorsing components of this platform, members agree to specific objectives and measurable goals for energy production and use in the region, and to work towards these goals by implementing a mix of policy recommendations included in the Platform. In addition to goals related to energy efficiency, renewables, and biofuel production, the Platform lays out explicit objectives with respect to carbon capture and storage. Members agree to have in place a regional regulatory framework for CCS by 2010, and by 2012, to have sited and permitted a multi-jurisdiction CO<sub>2</sub> transport pipeline and have in operation at least one commercial-scale coal-powered IGCC power plant with CCS, with additional plants to follow in succeeding years.
- In May 2007 Montana adopted a CO<sub>2</sub> emissions performance standard for electric generating units in the state with the enactment of HB 25. The law prohibits the state Public Utility Commission from

<sup>29</sup> See Oregon Revised Statutes 469.503; Revised Code of Washington 80-70-010 et seq.

<sup>30</sup> Members include Indiana, Iowa, Kansas, Michigan, Minnesota, Ohio, South Dakota, Wisconsin, and Manitoba. The full Energy Security and Climate Stewardship Platform, and accompanying agreements, are available online at [http://www.midwesterngovernors.org/resolutions/MGA%20Platform1\\_Layout%201Right.pdf](http://www.midwesterngovernors.org/resolutions/MGA%20Platform1_Layout%201Right.pdf). Accessed December 6, 2007.

approving electric generating units primarily fueled by coal unless a minimum of 50 percent of the CO<sub>2</sub> produced by the facility is captured and permanently geologically sequestered. The standard applies only to electric generating units constructed after January 1, 2007.

- In 2006, Colorado adopted legislation providing incentives for IGCC power plants of 350 MW or less that use Colorado or other western coal to generate electricity and that demonstrate the capture and sequestration of a portion of the project's CO<sub>2</sub> emissions. Incentives for projects meeting these criteria include mechanisms for cost recovery (including full life-cycle capital and operating costs); financial support for study, engineering, and development from a clean energy development fund; and support in obtaining federal funding, among others.
- Wyoming and California are working together to develop an IGCC/CCS project and to jointly seek federal funds for it.<sup>31</sup>
- Several states are allowing or considering the use of eminent domain for CO<sub>2</sub> pipelines and storage. For example, a bill has been introduced in the Montana Legislature to allow the inclusion of pipelines and storage in the state's eminent domain powers.<sup>32</sup> Minnesota provides an innovative energy project with the power of eminent domain, enabling it to acquire the property for its facility and transmission infrastructure.<sup>33</sup> Mississippi may include carbon dioxide pipelines within the class of common carriers eligible for eminent domain proceedings.<sup>34</sup>
- Texas has enacted legislation that would relieve companies from liability associated with the escape or migration of captured and stored carbon dioxide, and Illinois has twice considered similar legislation.<sup>35</sup>
- Colorado has pledged to support a utility's efforts to seek federal funding, and West Virginia may follow suit.<sup>36</sup>

### 3. Closely Related IGCC Initiatives:

Although some states are pursuing CCS incentives, many more states are providing incentives for IGCC. The following state-level IGCC incentives could be extended to CCS:

- Pennsylvania includes IGCC and waste coal in its Alternative Energy Performance Standard and is buying power under long-term contract with a coal gasification plant.
- Illinois is assisting with front-end engineering design (FEED) costs for three coal gasification projects at a cost of a few million dollars per project.<sup>37</sup> FEED includes many of the major upfront tasks for a project, such as planning documents, requests for proposals, and cost estimates. By paying for upfront

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<sup>31</sup> Steve Ellenbecker, Energy Advisor to Wyoming Governor David Freudenthal. Personal Communication, February 2008.

<sup>32</sup> Montana HB 24, 60th Legislature, Regular Session (MT 2007).

<sup>33</sup> 216B.1694(2)(a)(3), Minnesota Statutes 2006.

<sup>34</sup> Mississippi SB 2152, 122nd Legislature, Regular Session (MS 2007); see also H.B. 300, 122nd Leg. Sess. (MS 2007) (in the Senate as S.C.R. 509).

<sup>35</sup> Texas Natural Resources Code Ann. § 119 (2006) (H.B. 3110, 80th Leg. Sess., Reg. Sess. (TX 2007) would amend this statute to require the attorney general to defend any claim of liability against an owner or operator of a sequestration project and indemnification); Illinois HB 1135, 95 General Assembly, Regular Session (IL 2007); H.B. 5825, 94th Gen. Assem., Reg. Sess. (IL 2006).

<sup>36</sup> Colorado Revised Statutes § 40-2-123(2)(j) (2006); West Virginia SB 631, 78th Leg., Regular Session (WV 2007).

<sup>37</sup> Illinois Public Acts 92-0012 and 93-0167.

FEED costs, which are difficult for companies to finance through other means, the state avoids one of the major hurdles to undertaking a project and provides an early demonstration of support for a project.

- Indiana provides a tax credit to newly constructed IGCC plants that serve Indiana customers. The Indiana PUC also provides financial incentives to low-carbon coal technology in general, including cost recovery and an increase in shareholder returns while allowing rate changes to be made without a full rate case (see section IV, B).
- Idaho has adopted a moratorium on coal plants other than IGCC.

#### 4. Efforts to advance acceptance of sequestration:

- The West Coast Regional Carbon Sequestration Partnership is engaging in a public outreach process to educate local stakeholders about its geologic sequestration test site.<sup>38</sup> Public concerns generally center on the health impacts and liability for any catastrophic release of CO<sub>2</sub>. Acceptance of CCS by the public will be a critical determinant of the viability of this approach to address GHG emissions, so public education and outreach efforts by states are an important component to moving the nation towards a national CCS policy.
- The West Coast Regional Carbon Sequestration Partnership's demonstration project in Solano County, California will provide critical experience in developing siting criteria and procedures.

### C. STATE INITIATIVES ON CO<sub>2</sub> TRANSPORT AND DISPOSAL

Despite the incentives and lower risks for CCS that could be provided by some of the mechanisms noted above, the high costs and lack of comprehensive regulatory regimes for the capture, transport, injection and monitoring of carbon dioxide still pose barriers to large-scale CCS deployment. Current federal and state rules pertain to transport and injection of CO<sub>2</sub> for enhanced oil recovery and CCS pilot projects. Currently, non-EOR injection of CO<sub>2</sub> is governed by EPA's Class V Experimental Technology Well Guidance for Pilot Geologic Sequestration Projects.

The Interstate Oil and Gas Compact Commission (IOGCC) has produced a regulatory framework for state regulation of geologic carbon sequestration and provides a template for individual states to proceed with their own rules. The IOGCC regulatory framework would apply to anyone holding a Certificate of Public Notice (CPN) and would regulate "injecting, storing or distributing CO<sub>2</sub> by means of pipelines into, within or through this state for ...storage for the purpose of greenhouse gas mitigation."<sup>39</sup> The regulations would declare CO<sub>2</sub> storage to be in the public interest, allow for eminent domain, and require a certificate of closure at the end of injection operations.<sup>40</sup> Ownership and liability issues would be dealt with under the state's property code.<sup>41</sup> North Dakota and Wyoming have released draft rules based on the IOGCC framework and other states are in the process of drafting their own rules. One difference in the two sets of rules released to date involves

<sup>38</sup> For more information and updates, see <http://www.westcarb.org/outreach.htm>

<sup>39</sup> See Interstate Oil and Gas Compact Commission, "Carbon Capture and Storage: A Regulatory Framework for the States." (2005) [hereinafter IOGCC Framework]; p. 75. Available online at <http://www.iogcc.state.ok.us/PDFS/CarbonCaptureandStorageReportandSummary.pdf>. Accessed 12/11/07.

<sup>40</sup> IOGCC Framework p. 75-76.

<sup>41</sup> IOGCC Framework p. 74.

the potential granting of carbon capture and geologic storage permits to CO<sub>2</sub> EOR projects: Wyoming's provisions indirectly disallow this possibility while the North Dakota rules allow it.

A number of states have begun to introduce legislation or form commissions to establish rules and regulations pertaining to disposal of CO<sub>2</sub>.<sup>42</sup> Jurisdiction over these efforts will vary from state to state, although significant public utility commission involvement is likely. PUCs will most often establish the siting, financing, and rate recovery rules for the generating facilities producing the CO<sub>2</sub>, and may also have some jurisdiction over pipelines that will carry captured CO<sub>2</sub>,<sup>43</sup> as well as authority over injection and the financial consequences of any leakage.

In order to expedite the CCS process, an agency or board that coordinates the review of CO<sub>2</sub> disposal sites by all interested state, federal and local agencies streamlines the process (a one-stop siting agency). Such an agency may have jurisdiction to conduct joint hearings and issue joint decisions,<sup>44</sup> exclude projects from other state or local rules<sup>45</sup> and expedite review.<sup>46</sup> Such a siting agency could further hasten deployment by simultaneously accepting and considering applications for the siting of the plant and any associated pipeline or other infrastructure needed for sequestration.

### 1. "One-stop" Agencies

- The Ohio Power Siting Board ("OPSB") provides the most developed model of a state-level one-stop siting agency.<sup>47</sup> The OPSB provides coordinated review for sites of CO<sub>2</sub> disposal. It engages applicants in extensive pre-review consultation, and is required to issue decisions on coal research and development facilities within 90 days after the application and supporting information is received.<sup>48</sup>
- New York's Advanced Clean Coal Power Plant Initiative created a "Shovel-Ready Team" that serves essentially the same functions as the OPSB, but goes further by assessing particular sites within the state.<sup>49</sup> The team conducted detailed evaluations of over 120 CO<sub>2</sub> disposal sites, choosing 25 "pre-qualified" sites and finally winnowing the field down to the most desirable locations (based on site geology and other factors) for building a coal plant with CCS. Such an endeavor may be a more resource-intensive process than a state agency could or should undertake; however, it certainly provides a powerful tool for expediting clean coal projects.

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<sup>42</sup> Montana: HB 218 and 282, 60th Leg., Reg. Sess. (MT 2007) (legislation introduced to require establishment of regulations); Kansas: HB 2419, Reg. Sess. (KS 2007) (same); West Virginia: S.C.R. 54, 78th Leg., Reg. Sess. (WV 2007) (resolution to study geologic sequestration and necessary rules and regulations); California: AB 705, Reg. Sess. (CA 2007) (legislation introduced to require establishment of regulations); New Mexico: In New Mexico, Governor Richardson tasked the Oil Conservation Division of the Energy, Minerals, and Natural Resources Department, to facilitate a working group that will propose regulations for geologic sequestration

<sup>43</sup> Jurisdiction over pipeline siting, management, and rates is split between federal and state authorities.

<sup>44</sup> See Ohio Revised Code Ann. § 4906.14 (2005).

<sup>45</sup> See Ohio Rev. Code Ann. § 4906.13 (2005).

<sup>46</sup> See Ohio Rev. Code Ann. § 4906.03(E) (2005).

<sup>47</sup> The OPSB coordinates the action of the Ohio Public Utilities Commission, the Ohio Environmental Protection Agency, the Ohio Department of Health, the Ohio Department of Development, the Ohio Department of Natural Resources, the Ohio Department of Agriculture, and, in some cases, the Ohio Department of Transportation, the Ohio Historical Society, and the U.S. Fish and Wildlife Service. The OPSB issues Certificates of Environmental Compatibility and Public Need.

<sup>48</sup> See Ohio Rev. Code Ann. § 4906.03(E). In all other circumstances, the board has eighteen (18) months to render a decision.

<sup>49</sup> Initiative by the Governor's Office of Regulatory Reform at [www.gorr.state.ny.us/ACCPPI-welcome.html](http://www.gorr.state.ny.us/ACCPPI-welcome.html).

- Washington State has created an Energy Facility Siting Council with powers similar to those of the OPSB,<sup>50</sup> and Montana<sup>51</sup> and Kentucky<sup>52</sup> have proposed similar agencies.

## 2. Comprehensive CO<sub>2</sub> Disposal Legislation

- Montana has proposed legislation that would rest authority for regulation of geologic carbon sequestration with the state's Board of Environmental Review.<sup>53</sup> Through House Bills 218 and 282, Montana would establish a system for the permitting, siting, monitoring and verification, mitigation of leaks, restoration of surface land and bonding to ensure the effectiveness of the sequestration.<sup>54</sup>
- The Kansas legislature, under House bill 2419, has proposed regulating carbon sequestration through the authority of the Kansas Corporation Commission.<sup>55</sup> Along with allowing for property tax exemptions and accelerated depreciation, this bill requires the adoption of regulations for the injection and maintenance of carbon dioxide. Fees for permitting would be put into a special fund for the commission to use in determining whether to issue permits, investigating complaints and remediating sites.<sup>56</sup>
- Other states considering comprehensive legislation include West Virginia, California, and New Mexico. West Virginia has adopted a resolution providing for study of, inter alia, statutory and regulatory issues relating to geologic carbon sequestration.<sup>57</sup> Proposed legislation in California would place the burden of crafting regulations on the California Environmental Protection Agency, the Division of Oil, Gas, and Geothermal Resources, and the Resources Agency. California Assembly member Jared Huffman introduced AB 705 to require the study of and establishment of rules and standards for the capture, transport, and injection of carbon dioxide and the monitoring and verification and closure of sequestration sites.<sup>58</sup> New Mexico has also convened a stakeholder process to study the creation of a comprehensive framework for carbon capture and sequestration.<sup>59</sup>
- Through one of the cooperative regional initiatives within the Energy Security and Climate Stewardship Platform for the Midwest, Iowa, Michigan, Minnesota, Ohio, Wisconsin, and the Canadian province of Manitoba are working to establish a regional carbon management infrastructure partnership that will include uniform regional model state regulatory framework for CO<sub>2</sub> capture, transport, injection, and storage, based in part on the IOGCC model framework described above.<sup>60</sup>

<sup>50</sup> Wash. Revised Code § 80.50.01 et seq. (2001).

<sup>51</sup> See Montana HB 405 § 8(2)(a), 60th Leg., Regular Session (MT 2007) (providing the governor with the authority to "create an executive branch permitting facilitation process for clean energy development projects that, to the extent allowed by law, coordinates and synchronizes all requisite agency applications, permits, licenses, orders, and decisions.").

<sup>52</sup> See Kentucky SB 196, Reg. Sess. (KY 2007) (amending KY Rev. Stat. Ann. § 224.10-225) (providing that "the secretary of the Environmental and Public Protection Cabinet shall facilitate the permitting of coal-fired electric generation plants or industrial energy facilities . . . by developing procedures for one (1) stop shopping for environmental permits.")

<sup>53</sup> Montana HB 218 and HB 282.

<sup>54</sup> Montana HB 218; HB 282.

<sup>55</sup> Kansas HB 2419 § 2(a)(2).

<sup>56</sup> Kansas HB 2419 § 3.

<sup>57</sup> West Virginia Senate Concurrent Resolution No. 54 (March 8, 2007).

<sup>58</sup> California AB 705.

<sup>59</sup> Interview with Sandra Ely, New Mexico Air Quality Bureau, May 22, 2007.

<sup>60</sup> The Platform is available online at <http://www.wisgov.state.wi.us/docview.asp?docid=12495>; see page 26 for the infrastructure agreement

### 3. CO<sub>2</sub> Transportation and Pipeline Initiatives

Most observers have concluded that existing pipeline safety and siting statutes can be easily amended to include carbon dioxide.<sup>61</sup> A few states have taken actions on this front.

- North Dakota statutes pertaining to pipeline carriers explicitly include the transport of carbon dioxide (due to the active Dakota Gasification project that transports carbon dioxide to the Weyburn field for enhanced oil recovery).<sup>62</sup> While North Dakota does not have a comprehensive CCS statute, the state does have one large commercial carbon transport pipeline.
- Indiana's pipeline safety code defines carbon dioxide as a fluid in a supercritical state containing more than 90 percent carbon dioxide and addresses transportation, distribution and storage of CO<sub>2</sub>.<sup>63</sup>
- Montana legislation proposes adding carbon dioxide to the list of gases currently regulated by MCA §69-13-101, which would classify pipelines carrying carbon dioxide as common carriers and provide eminent domain authority for their construction.<sup>64</sup>
- Indiana, Kansas, Iowa, Michigan, Minnesota, Ohio, South Dakota, Wisconsin, and the Canadian province of Manitoba have agreed to a number of measures as part of the Energy Security and Climate Stewardship platform for the Midwest, including implementation by 2010 of a regional regulatory framework that addresses liability issues surrounding CO<sub>2</sub> storage and, by 2012, the siting and permitting of a CO<sub>2</sub> transport pipeline in the region. The Platform lays out a menu of policy options members will adopt to work towards these goals.

State legislatures and many state agencies have a number of tools available to encourage the policies and technological advancement outlined above. In the absence of state or federal GHG reduction requirements, state utility commissions will have ultimate responsibility for providing the conditions for the successful completion of low-carbon coal power generation projects. The following section discusses the various steps public utility commissions can take to create these conditions and spur the development and deployment of CCS technology.

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<sup>61</sup> IOGCC Framework.

<sup>62</sup> North Dakota NDCC 49-19-01 et seq.

<sup>63</sup> Indiana IC 8-1-22.5 et seq.

<sup>64</sup> Montana HB 24.

### III. Public Utility Commission Policies for Carbon Capture and Storage

Because electric power is an essential public service, the power sector is closely regulated under public utility laws in every state and many of the financial and regulatory tools that can be used to advance CCS are available to, and fall within the jurisdiction of, public utility commissions (PUCs). Public utility regulators are expected to balance multiple, often-competing goals: to protect ratepayers, to ensure the continuation of adequate and reliable electric power service, to support the long-term financial stability of generators and utilities and, increasingly, to transform the power generation sector to lower GHG emissions and meet society's needs for long-term environmental health.

While the public policy imperatives driving advanced coal and CCS technologies are persuasive, there are many barriers to the near-term deployment of CCS projects embedded in longstanding utility regulatory practices and policies in the United States. It is important to understand that some of these barriers are based on the well-founded reluctance of ratepayer advocates and public utility commissions to grant financial incentives to, or shift risk from, developers of CCS projects. This reluctance is based on almost a century of regulatory experience seeking to find a proper balance between ratepayer protection and incentives to utility investors. On the side of caution, regulatory commissions are aware of utility financial excesses and rich shareholder benefits going back to the railroad era, and the rate impacts of both nuclear plant cost overruns and power market manipulations of just a few years ago. On the side of assisting utilities, regulatory commissions increasingly share the public's desire for environmentally sustainable energy policies, and are coming to terms with the urgent need to turn the corner quickly on the future of coal generation in the United States. Yet a further potential barrier to widespread deployment of CCS is the current lack of public understanding and acceptance of the technology.

The result is that efforts to promote CCS projects through the policies of public utility commissions must be crafted carefully to provide an acceptable balance among competing objectives, and cannot simply be removing "regulatory barriers" to CCS that reside in longstanding regulatory and ratemaking practices. CCS strategies must also account for the operation of wholesale power markets and the structure of the power sector, both of which have changed dramatically in the last decade. Many of the barriers to CCS experimentation and early CCS deployment arise in these new power markets. For example, independent power producers, a large and growing segment of the power industry, can not be expected to develop CCS projects on a speculative basis. So long as conventional coal generation enjoys a substantial cost advantage over generation with CCS, it will be chosen by utilities in the absence of policy intervention.

The PUCs of a number of states have already taken steps to expedite CCS's commercialization, either by establishing strict emissions standards or by providing financial and regulatory incentives, or in some cases, both. Others have encouraged IGCC, considered by some to be the most promising platform for CCS

(although whether it indeed has a substantial advantage over advanced technology pulverized coal (“PC”) plants as a platform for CCS has not been determined). This section examines existing and proposed regulatory tools available to PUCs to advance CCS. The main avenues that PUCs have explored to support CCS can be considered as falling into five groups:

- A. Considering costs of carbon constraints during planning;
- B. Financial assistance through Cost Recovery provisions
- C. Other financial assistance mechanisms
- D. Waivers from standard review-process requirements
- E. Power acquisition agreements and other utility-specific options

The subsections below provide brief reviews of state initiatives in each of these categories.

## **A. CONSIDERING CARBON CONSTRAINT COSTS DURING PLANNING**

According to the National Energy Technology Laboratory, there are as many as 151 new coal-fired plants, with a total capacity of 96GW, now proposed to be built in the United States alone.<sup>65</sup> Yet on October 18th, 2007, Secretary of the Kansas Department of Health and Environment Roderick Bremby rejected an air permit for a proposed coal-fired power plant based on the threat to public health and the environment posed by carbon dioxide emissions. In the past, air permits have been denied over emissions such as sulfur dioxide, nitrogen oxides, and mercury, but this marks the first rejection based on impacts from carbon dioxide emissions. The decision was based in part on an April Supreme Court decision that greenhouse gases should be considered pollutants under the Clean Air Act. The plant was expected to produce 11 million tons of carbon dioxide annually.

Consensus is growing that carbon regulations including emission caps will be enacted by Congress in the next few years. However there is tremendous uncertainty regarding the stringency of these rules and how existing and new coal plants will be treated. Some coal developers, expecting that future cap-and-trade regimes will allocate greenhouse gas emission allowances to existing plants on a grandfathered basis for free, are rushing to get their plants built in a “race to grandfather.” Other developers, particularly in the face of the Kansas decision, are reluctant to pursue coal plants. One way to deal with these uncertainties is for utility regulators to adopt procedures that provide warnings and information about the risks of new builds of coal plants without CCS. The two forms such approaches take are carbon adders for use in utility resource planning, and cost-recovery policies and warnings, advising investors that future carbon compliance costs for new coal plants without CCS may not be passed on to ratepayers.

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<sup>65</sup> National Energy Technology Laboratory, Tracking New Coal-Fired Power Plant: Coal’s Resurgence in Electric Power Generation 4 (May 2007) [hereinafter NETL, Coal’s Resurgence].

## 1. Carbon Adders

A few states require utilities to consider the cost of compliance with carbon constraints in their resource planning.<sup>66</sup> Whether quantitative “carbon adders” or qualitative analyses are specified, such requirements force utilities to consider the potential effects of carbon dioxide regulation in their current investment decisions. Such considerations affect the determination of what qualifies as a least cost resource, as important issue in PUC decisions. California instituted carbon adders in 2004,<sup>67</sup> and Oregon’s PUC requires utilities to consider a range of possible CO<sub>2</sub> costs in their resource plans. The Arkansas commission has taken a qualitative approach, recently requiring Southwestern Electric Power Company to submit testimony regarding the potential effects of climate change regulation, as well as alternatives to its proposed coal-fired generation plant including demand side responses, efficiency, and clean coal technology (IGCC and CCS).<sup>68</sup>

Recently parties have questioned whether utilities are underestimating the costs of adding CCS,<sup>69</sup> and Oregon has opened a proceeding to on the issue.<sup>70</sup> The New Mexico commission has opened an inquiry into the possibility of setting “standardized carbon emissions costs.”<sup>71</sup>

## 2. Traditional Jurisprudence

One of the most powerful mechanisms to ensure that new investments in coal-fired generation are designed to minimize costs of adding or including CCS is the application of traditional utility prudence standards. Significant GHG regulation is anticipated within the next few years, and certainly within the economic lifetimes of any new coal plants. Such regulations will result in additional costs for the operation of coal-fueled facilities. Utility regulators will be asked by plant owners to pass these new costs on to ratepayers, but they will be asked by consumer advocates, including advocates for industrial customers, to require plant owners to assume these costs as a condition of continued operation.

Under traditional utility regulatory jurisprudence, a utility’s failure to consider explicitly the economic risk of future regulation before committing ratepayers to investments in a major plant would likely be grounds for a PUC finding of imprudence on the part of the utility. In such a case, cost recovery could be denied, with losses to shareholders. To avoid this situation in the case of CCS, utility regulators, consumer advocates, and other stakeholders could require utility managers and investors to take expected legislation restricting CO<sub>2</sub> emissions into account in considering and planning major commitments to new coal plants. An explicit warning could take the form of a formal statement by the state legislature, regulatory commission, attorney general, or public advocate that future GHG compliance costs will not be included in rates unless the utility has demonstrated that it has taken all reasonable steps to consider the least cost approach taking all low-emitting options into account, including energy efficiency, renewable energy, and coal with CCS.<sup>72</sup>

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<sup>66</sup> The Wisconsin PUC had initiated an “Advance Plan docket” in 1992 that required utilities to add the cost of \$15/ton for carbon dioxide emissions in its procurement selection process, but this was later abandoned. In its 2006 IGCC Report it recommended reinstating some sort of carbon adder. IGCC Draft Report at 54.

<sup>67</sup> See California R. 04-04-025; D. 05-04-024.

<sup>68</sup> Arkansas Public Service Commission, Docket No. 06-154-U, Order No. 5 (March 2, 2007).

<sup>69</sup> PacifiCorp used a range from \$8/ton CO<sub>2</sub> to \$30.80/ton CO<sub>2</sub>. Order No. 07-018 at 9.

<sup>70</sup> See *id.* (referring to Order No. 07-002 (Docket UM 1056)).

<sup>71</sup> Case No. 06-00448-UT (October 31, 2006).

<sup>72</sup> See e.g., Michael Dworkin et al., *Coal-Fired Power Plants: Imprudent Investments?*, 315 Science 1791 (March 2007).

## B. FINANCIAL ASSISTANCE THROUGH COST RECOVERY

Industry and environmental leaders recognize that achieving deployment of clean coal technology may require both mandatory emissions standards and financial incentives.<sup>73</sup> In this subsection we focus on policies to pro-actively support CCS, develop demonstration projects, and encourage the power industry to deploy advanced coal resources through cost recovery guarantees. As PUCs consider use of cost-recovery, they will need to strike the fine balance between acknowledging the financial risks and difficulties faced by power producers, the need to protect ratepayers from cost overruns such as those seen during past nuclear plant construction, and the need to prepare for stringent carbon constraints.

The single most important incentive for power producers to undertake investments in new technology is the guarantee of cost recovery. In today's power markets and regulatory regimes, this is an even more difficult problem for new technology than it has been historically. In large portions of the nation, the restructuring movement of the 1990's broke up large, vertically-integrated utility systems, and created independent power producers who must rely on competitive wholesale markets for cost recovery, rather than securing cost recovery for their investment from captive customers via rates set by their PUCs.<sup>74</sup> Even in states that did not restructure, utilities and merchant generators are still recovering from the precipitous decline of their credit ratings due to the Western power crisis of 2001, which threatened the financial viability of a number of utilities, the collapse of Enron, and the large number of natural gas plants forced into receivership by high gas prices. On a more long-term basis, painful memories still linger from the billions of dollars invested, but whose cost recovery was disallowed by PUCs, in the nuclear plant cases of the 1980s and 1990s.

In addition to the problem of recovering the costs to build and operate plants with CCS, the high up-front price-tags for design and development studies can present problems. Under some ratemaking practices these costs may not be recoverable in rates unless linked to specific projects that are later included in rate base.<sup>75</sup> A second cost issue is that traditional ratemaking considerations, such as low cost and reliability, tend not to support use of an undemonstrated technology such as CCS. To address all of these cost issues, a few states have implemented or proposed a number of measures, as reviewed below:

### 1. Timely Recovery Provisions.

Several states have added "timely recovery" provisions to their utility regulatory statutes.<sup>76</sup> These provisions often do not specify exactly what is meant by the term "timely recovery," but the intentions of the provisions can be met in a variety of ways. Specific utility regulatory mechanisms to provide timely cost recovery by CCS investors include:

*a) Recovery of Construction Work in Progress (CWIP).* Traditional utility ratemaking policy provides that a company's investments in utility assets should not be included in rates until the asset in question is "used and useful" for the provision of regulated utility services—that is, ratepayers should not be required to pay for it until

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<sup>73</sup> United States Climate Action Partnership, *A Call for Action* (January 2007).

<sup>74</sup> That is, under a franchise system, vertically-integrated utilities recovered their costs through rates established by the public utilities commission. In a restructured setting, rates depend not upon regulatory review, but upon the market.

<sup>75</sup> The front-end engineering and design study may cost between \$10 and \$25 million because there is no experience with the commercial demonstration of the technology. Interviews with Marty Smith (Xcel Energy) and Sandra Ely (New Mexico Dept. of Environmental Quality).

<sup>76</sup> Many states have proposed or allowed what they refer to as "timely recovery." In some cases this means CWIP recovery in other cases it refers to the use of rate adjustment clauses.

it is providing them service. This policy protects ratepayers from the kind of cost overruns, plant cancellations and delays that plagued nuclear construction in past decades, but imposes significant financing costs and risks on utility investors, particularly for large-scale, complex, or innovative technologies. One technique for shifting these costs and risks to ratepayers is Construction Work in Progress (CWIP), which allows the utility to roll ongoing project costs into rates before the facility is operational. Debate over this mechanism was fierce during the nuclear plant construction era, with consumer and environmental advocates often opposing CWIP. Many of the same arguments against CWIP are raised today in regard to CCS, but the political dynamics may be different. Environmental advocates may be less opposed to CWIP for CCS than for nuclear facilities. However, others may object to using CWIP for CCS because it could set a precedent for using it for other technologies.

*b) Avoiding across-the-board reviews.* Ratepayer advocates usually oppose adding major new costs to rates without an across-the-board rate case, since across-the-board rate cases provide an opportunity to examine the utility's entire operation, including the quality of service provided and cost elements that may have gone down since the last general review. Advocates of timely recovery for CCS investments on the other hand may prefer a regulatory practice that would allow their project costs to be recovered without undergoing an across-the-board review, which can be time-consuming. Mechanisms that could be used to flow CCS costs into rates without a general rate review include fuel adjustment clauses,<sup>77</sup> capacity recovery clauses,<sup>78</sup> retail rate adjustment clauses,<sup>79</sup> or CCS-specific rate adjustment clause.<sup>80</sup> Since deployment of CCS significantly increases fuel requirements and reduces net output, use of fuel adjustment and capacity recovery provisions seem appropriate and promising avenues for avoiding across-the-board rate reviews. On the other hand, it is hard to view CCS capital costs and entirely new generation costs as simply a change in the cost of fuel that is outside the ability of the utility to manage.

**2. Preapproval of Cost Recovery.** This is one model that provides a great deal of certainty for CCS cost recovery and significantly reduces risks to CCS investors, but increases risks to ratepayers. It would permit the regulatory preapproval of CCS projects and exempt those projects from challenges on the basis of "excessive cost, inadequate quality control, or inability to employ the technology,"<sup>81</sup> thus ensuring cost recovery through appropriate rates. States where decisions allowing preapproval of costs have been made or proposed include Illinois, Indiana, and Ohio. Indiana has limited preapproval to utilities that apply to the Commission for ongoing review of construction costs, and the application must undergo public hearing before approval.<sup>82</sup>

<sup>77</sup> A fuel adjustment clause provides for rate increases or decreases due to changes in the utility's cost of fuel without resort to a fuel cost-of-service review in a rate case. To the extent that advanced coal processing costs, coal gasification costs, and the like are considered variable fuel costs, recovery through the utility's fuel adjustment clause seems consistent with historic practice. Illinois allows cost recovery of purchases of synfuel through purchased gas adjustment clause. See 220 Illinois Comp. Stat. § 5/9-220(h) (2005). Indiana proposes passing costs of purchasing substitute natural gas (gas produced through gasification) through a fuel adjustment clause. See Indiana HB 1722, 115th Gen. Assem., 1st Reg. Sess. (IN 2007).

<sup>78</sup> Proposed legislation in Florida would allow recovery of preconstruction costs, carrying costs and cancellation costs through a capacity cost recovery clause. See Florida HB 549, 109th Leg. Sess., Reg. Sess. (FL 2007) (introduced in the Senate as SB 1202).

<sup>79</sup> Indiana has enacted and has pending statutes that allow recovery through retail rate adjustment mechanisms based on forecasted or actual costs as long as a reconciliation mechanism is included for forecasted costs. See Indiana Code §§ 8-1-8.8-1 and 8-1-8.8-12 (2002); HB 1713, 115th Gen. Assem., 1st Reg. Sess. (IN 2007); HB 1722, 115th Gen. Assem., 1st Reg. Sess. (IN 2007). Retail rate adjustment clauses may be used to increase rates without a full rate case where current retail rates fail to adequately cover stranded costs, government mandated costs, or various other costs.

<sup>80</sup> Colorado: Colorado Rev. Stat. 40-2-123(2)(f)(I) (2006) created a separate rate adjustment clause for projects covered by the statute; Ohio: Ohio Admin. Code § 4901:1-12-01 (2006) creates the "Ohio coal research and development cost adjustment." This cost adjustment clause allows for a "provision in a schedule of a gas or natural gas company that requires or allows the company to, without adherence to [a full rate case], recover on a uniform basis per unit of sales of Ohio coal research and development costs, determined to be reasonable by the commission." *Id.* at § 4901:1-12(c).

<sup>81</sup> Indiana Code 8-1-8.7 (2002).

<sup>82</sup> *Id.*

**3. Expanded Cost Recovery.** Some states have expanded the types of costs recoverable from ratepayers. For example, in 2006, the Ohio PUC issued an order allowing the utility AEP to recover its preconstruction costs for an IGCC plant including the costs for its front-end engineering and design study (see Appendix III for details). The Indiana PUC also approved a settlement providing cost recovery for front-end engineering and design costs under \$20 million.<sup>83</sup>

Colorado provides more generous cost recovery, and Florida is considering doing so. In Colorado retail rates can be set to cover not only preconstruction costs (including studies, surveys and permitting costs) but also costs for purchasing electricity in the event of planned and unplanned outages during initial startup and commercial operation, full-life cycle costs for construction and operation, costs incurred up to the time of cancellation of a project, and costs of wholesale contracts until recovered through the Federal Energy Regulatory Commission (FERC).<sup>84</sup> Legislation proposed in Florida would also allow a utility to recover the net book value of any existing plant replaced by an IGCC plant.<sup>85</sup>

A complex, pending question in the area of cost recovery for CCS is whether the costs of CO<sub>2</sub> storage—including transport, injection, storage, monitoring, long-term verification, and future compliance costs—should be recoverable. As a practical matter, PUCs are likely to be much more familiar with, and accepting of, expanding cost recovery to activities that are part of the power plants directly under their regulatory control than they would be with the costs of transport and long-term storage.

## C. OTHER FINANCIAL ASSISTANCE MECHANISMS

A number of other mechanisms have been tried or proposed to improve the cost-revenue picture for new power generation technologies. Mechanisms can provide higher rates of return; grant bonding authority; accelerate depreciation; provide flexibility in completion date, capacity, and construction cost agreements; or speed the approval process. To date these have been used to promote other technologies, but they could be used for CCS.

Indiana, for example has enacted a statute allowing “clean coal projects” to earn a rate of return on shareholder equity of up to 3 percentage points more for IGCC plants than would otherwise be allowed,<sup>86</sup> and California’s commission may allow “an increase from one-half to 1 percent in the return on investment” for a contract investing in zero- or low-carbon resources.<sup>87</sup> Wisconsin’s Public Service Commission has considered whether to allow a rate of return on purchases of power from IGCC plants, limiting such a rate to cover costs of the gasifier portion. Under existing law purchases of power are treated on a “pass-through” basis, and utilities do not earn income from the purchases. Allowing a return rate would thus be an increase over current “zero” return laws.<sup>88</sup> Where the investors’ returns are already fairly well secured by cost-recovery mechanisms such as described in this paper, ratepayer advocates are likely to resist allowing higher rates of return. Thus, regulators should consider the tradeoff between offering higher rates of return versus assuring cost recovery.

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<sup>83</sup> Re PSI Energy, Inc. dba Duke Energy Indiana, Inc., 251 P.U.R.4th 287, 2006 WL 2547054 (Ind. U.R.C.) (July 26, 2006).

<sup>84</sup> Colorado Rev. Stat. § 40-2-123(f) (2006).

<sup>85</sup> Florida HB 549, 109th Leg., Reg. Sess. (FL 2007) (amending 366.93(4)). Recovery would occur over a period of not more than 5 years. As written, this provision would perhaps more than insulate a utility from the risks of adding an IGCC plant, but would not achieve any carbon capture or storage.

<sup>86</sup> A pending legislative proposal would extend the higher rate to the purchase of synfuel as well. Indiana Code §§ 8-1-8.8-1 and 8-1-8.8-11 (2002), H.B. 1722, 115th Gen. Assem., 1st Reg. Sess. (In 2007).

<sup>87</sup> California Pub. Util. Code § 8341(b)(6) (2007).

<sup>88</sup> The Wisconsin Draft Report noted Indiana’s action and suggested that it could do the same by amending its “fixed financial parameters law,” Wis. Stat. § 196.371, to include IGCC projects. See Wisconsin Draft Report p. 57.

Authorization of bonding for environmental equipment has been used in Wisconsin and West Virginia. In Wisconsin a utility may apply to the public service commission for a financing order authorizing it to issue “environmental trust bonds” to install environmental control equipment.<sup>89</sup> Issuance of such an order “irrevocably authorize[s] the utility to impose charges upon its ratepayers that are sufficient to recover the costs of the bond issuance, even if the environmental control facilities do not perform as anticipated.” Under a similar statute, West Virginia’s commission may issue “environmental control bonds” to finance the construction or installation of environmental control equipment. West Virginia covers the costs of this incentive through the imposition of an “environmental control charge” on utility customers.<sup>90</sup>

Depreciation schedules can also be used to provide financial benefits. Indiana allows public or municipal utilities to depreciate clean coal technology over a period of not less than 10 years and not more than 20 years if the facility uses Indiana coal or “is justified” in not using it.<sup>91</sup> Since the typical expected life of coal generation facilities is far longer than 10-20 years, accelerated depreciation provides both an earlier return on the investment and lower risk to the investors that the investment would become a stranded asset.

Another proposal would provide “more flexibility regarding completion dates, the cost of construction, and the plant’s anticipated capacity factor,”<sup>92</sup> Such flexibility would relieve power providers from penalties for over-runs. Under this proposal, cost recovery could also be granted even if the plant did not reach its estimated level of power production.<sup>93</sup>

Expediting any portion of the review process decreases costs for the applicant<sup>94</sup> and a number of mechanisms are in use or under consideration. Applications for a Certificate of Public Convenience and Necessity (CPCN) are required in many states in order to site a new power plant. Strict time limits for determinations of certificates of public need have been proposed in Florida and Indiana. Florida’s House Bill 549 would require decision on a CPN within 135 days from filing,<sup>95</sup> and Indiana’s House Bill 1713 would require a CPN determination within 120 of the application unless the applicant had not cooperated fully.<sup>96</sup> To speed cost recovery decisions, Indiana law requires a determination of eligibility within 120 days of the application,<sup>97</sup> and North Dakota requires decisions on applications for an advance prudence determination—which, if granted, is “binding for ratemaking purposes”<sup>98</sup>—within seven months.<sup>99</sup>

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<sup>89</sup> Wisconsin Stat. § 196.027 (2006).

<sup>90</sup> West Virginia Code R. § 24-2-4(e) (2006).

<sup>91</sup> Indiana Code § 8-1-2-6.7 (2002) (defining clean coal technology as “a technology (including precombustion treatment of coal) . . . that is used at a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with the combustion or use of coal; and . . . that either: . . . is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or . . . has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.)

<sup>92</sup> Wisconsin Draft Report at 58.

<sup>93</sup> See *id.*

<sup>94</sup> At least in the short term. On the other hand, a more deliberative review may uncover potential pitfalls in the project, or more favorable alternatives that should be considered before large financial commitments are made.

<sup>95</sup> Florida HB 549, 109th Leg., Reg. Sess. (FL 2007).

<sup>96</sup> Indiana HB 1713, 115th Gen. Assem., Reg. Sess. (IN 2007).

<sup>97</sup> Indiana Code 8-1-8.8-1 (2002)

<sup>98</sup> *Id.* at § 49-05-16(4) (2005). It should be noted that provisions for in-advance prudence review, or “rolling prudence” reviews are quite controversial in the field of utility regulation. Opponents assert that they go too far in shifting the risk of construction failures and poor performance to ratepayers, who have no control over the construction and operation of the relevant facilities, and away from utility managers, who do have that control.

<sup>99</sup> See *id.* at § 49-05-16(2) (2005).

Delays and duplicative efforts also often plague the siting review process, and a number of approaches other than one-stop shopping have been proposed. In some locations it may be possible for state siting boards or PUCs to use their powers of preemption to alleviate delays inherent in obtaining local zoning or development permissions. A proposal in Montana, for example, would exempt clean energy projects from any “unreasonably restrictive” local laws or regulations.<sup>100</sup> CPCN applications generally require information on multiple siting alternatives. In its report on IGCC, Wisconsin proposed the idea of allowing an applicant to provide detailed analysis only of its preferred site along with information on the site evaluation process and limited information about alternative sites. A Montana proposal would exempt certain projects from the environmental impact statement requirement when a state agency issues any permit or other approval, and Kentucky’s Senate Bill 196 would limit the time allowed to reach environmental permitting decisions. However, such expedited reviews could work against public acceptance of CCS.

#### D. WAIVERS FROM CPCNS AND COMPETITIVE BIDDING REQUIREMENTS

Some of the most controversial challenges for both regulators and regulated utilities involve the initial decisions whether to approve proposed major power plants. In the case of regulated, vertically-integrated utilities, many states also now require the CPCN applicant to meet requirements such as congruence with the utility’s integrated resource plan or satisfaction of least cost resource or competitive acquisition standards. Applying these prerequisites to projects planning to use CCS presents a difficulty: justifying the additional costs of a technology whose reliability has not been proven in the absence of any state or federal mandates requiring its use. States have begun to address these obstacles with legislation that changes how the public utilities commissions evaluate clean coal technologies.

Minnesota is the only state that waives the requirement for a certificate of public convenience for innovative projects.<sup>101</sup> Proposed legislation in Montana may exempt “clean energy projects,” including coal gasification, by proclaiming that such projects are “considered to serve the public interest, convenience, and necessity.”<sup>102</sup> Colorado allows IGCC projects agreeing to capture and sequester a portion of their carbon dioxide emissions to apply for a waiver of the state’s competitive resource acquisition mandate which requires the utility to choose the “least-cost resource.”<sup>103</sup> A Florida proposal would also exempt an IGCC project applicant from the requirement to “secure competitive proposals for power supply.”<sup>104</sup> Finally, one report suggested exempting IGCC plants from a 2003 Wisconsin law that limited new generating facilities to brownfield sites.<sup>105</sup>

#### E. POWER ACQUISITION AGREEMENTS AND OTHER UTILITY-SPECIFIC OPTIONS

One of the most important roles of public utilities, and thus of PUCs, is the development of a portfolio of resources to serve long-term customer power demand. Two key tools that have been developed to meet this

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<sup>100</sup> See Montana HB 405(4)(c), 60th Leg., Reg. Sess. (MT 2006). A project approved by Ohio’s Power siting board is also exempt from local regulations.

<sup>101</sup> See Minnesota Stat. 216B.1694 (2006). “An innovative energy project . . . is exempted from the requirements for a certificate of need.”

<sup>102</sup> Montana 60th Legislature, House Bill No. 405, Section 4(1)(A)(d).

<sup>103</sup> See Colorado Rev. Stat. § 40-2-123(2)(e)(1) (2006). If the commission approves the certificate of public need after waiving this requirement, the statute requires the commission to issue a declaratory order for cost recovery.

<sup>104</sup> Florida HB 549, 109th Leg., Reg. Sess. (Fl. 2007) (amending 403.519(4)(c)).

<sup>105</sup> See *id.* (recommending amendment to Wisconsin Stat. §§ 196.49(4) and 196.491(3)(d)8) (2006).

objective and that are, or could be, used to accelerate deployment of CCS technologies are guaranteed power purchases and loading order guidance.

In Minnesota, the Clean Energy Technology Act requires a utility that owns a nuclear plant to buy at least 2 percent of its energy for retail customers from an “innovative energy project.”<sup>106</sup> New York’s Advanced Clean Coal Power Plant Initiative guarantees that the New York Power Authority will purchase power from the developer chosen to construct an advanced coal plant with CCS.<sup>107</sup> Since proof of a stable revenue stream is essential to obtaining financing for a power plant, guarantees of power purchase can make CCS plants happen.

Some states, led by California, have established a set of preferences or a “loading order” for utilities to follow in selecting new resources in their integrated resource plans for their portfolios. Alternatively, CCS could be listed as a preferred resource in a state’s general loading order, which guides planning and procurement decisions. For example, the Wisconsin Commission has considered ranking IGCC with CCS above other coal alternatives or giving it the same priority as renewable resources in its ranking of generating options.<sup>108</sup>

The above review reveals a large number of potential regulatory and market policies that could be used to advance CCS in the United States through the work of public utility commissions. Some of these policies are in effect in various states; many more have only been proposed; and very few have actually had much effect in these early stages of the development of a CCS industry. The 25-plus policies reviewed above cover a range of intervention points and methods, including (a) utility planning and power acquisition activities; (b) project development costs and siting procedures; (c) long-term and short-term cost recovery and rate-making policies; and (d) supporting policies in areas as diverse as eminent domain and risk management for future releases. Before any given policy is applied, however, regulators must consider carefully its pros and cons; how much special treatment to provide CCS projects; whether the benefits of the projects justify this treatment; under what circumstances CCS projects in particular, rather than other forms of electricity generation, should qualify for certain policies and incentives; and ultimately, how to advance CCS without making the nascent industry overly dependent on regulatory incentives. To help regulators work towards these (sometimes competing) objectives, each policy that might advance CCS should be evaluated across a range of criteria, including:

- 1) **Acceleration:** Will it produce investment in CCS that would not otherwise occur?
- 2) **Deterrence:** Will it deter unsound investment in high-emitting technology options, given the likelihood of future national-level carbon policy?
- 3) **Prudence and Accountability:** Will it promote prudent project management by those in a position to lower costs, improve reliability, and increase the rate of attainment? Will project managers be held accountable for financial and environmental results?
- 4) **Power supply costs:** Does it contribute to lower costs of CCS power generation?

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<sup>106</sup> Minnesota Stat. § 216B.1693(a) (2006).

Minnesota Stat. § 216B.1694.

<sup>107</sup> New York Advanced Clean Coal Power Plant Initiative, [www.gorr.state.ny.us/ACCPPI-welcome.html](http://www.gorr.state.ny.us/ACCPPI-welcome.html).

<sup>108</sup> Wisconsin Draft Report 56 (recommending a change to Wisconsin Stat. § 1.12 (2006)).

- 5) **Administrative costs:** What are the impacts on administrative and regulatory costs for developers, government, and other parties?
- 6) **Risk and cost balance:** How well does it balance the interests of ratepayers and investors? How can regulators make sure risk is properly allocated? Should ratepayers and investors share risks more equally if doing so can drive low-carbon innovation? How does an option transfer risk? Is the risk transfer adequately compensated, e.g. sufficiently lower ROI on pre-approved projects?
- 7) **Innovation:** Will it promote further CCS research and technical innovation?
- 8) **Standards:** Will it promote CCS projects and technologies that would be able to be replicated elsewhere, including measurement and verification?
- 9) **Performance:** Are the incentives scaled to real world performance, measured especially in tons of CO<sub>2</sub> permanently sequestered?

## IV. Conclusion

In the absence of federal leadership on climate change, many states are taking actions to reduce their greenhouse gas emissions. States recognize that coal power is one of their largest sources of carbon dioxide emissions and one likely to remain in widespread use for decades. As such, any effort to seriously address climate change must also address carbon emissions from coal power, and permanent Carbon Capture and Storage (CCS) is the critical technology for doing so. Many states have put incentives in place to advance coal technology broadly, and a small but growing number of states are specifically focusing on CCS.

This paper has surveyed many of the policy tools available to states as they seek to encourage the deployment of carbon capture and sequestration, and highlighted key lessons drawn from state experience. In addition to policies being pursued in these and other states, some promising avenues for the advancement of CCS include:

- 1) Setting generator performance standards that can drive low-carbon coal power, as in Montana, Oregon, and Washington;
- 2) Establishing retailer standards which operate in a manner analogous to the renewable portfolio standards that many states already use. California has adopted a GHG performance standards for new long-term power procurements that applies to retailers in its programs under SB 1368.
- 3) Cap and trade programs for greenhouse gases such as those being established by the Regional Greenhouse Gas Initiative, the Western Climate Initiative, and the Midwestern Regional Greenhouse Gas Reduction Accord;
- 4) Feebates, through which individual plants would be subject to a fee, and the funds generated would be used to deploy CCS technology at upgraded or newly built units;
- 5) Using a combined policy approach in which one or more of the above policies are implemented simultaneously.

Within the realm of Public Utility Commissions, there is insufficient experience with, and insufficient comparative analysis of, the more than 25 PUC policies in practice in the United States that were reviewed in Chapter IV to recommend any of them as “best practices” for utility commissions or legislatures. Rather, the authors recommend additional analysis of the more promising approaches, and discussions with the regulatory community and affected stakeholders (chiefly, utilities, developers, ratepayer advocates, and environmental experts). The challenge is to identify the mixture of policies that would seem to do the best job of supporting accelerated development of CCS within the electricity markets and regulatory contexts governing the U.S. power sector while safeguarding ratepayer interests and leading to a viable, stand-alone industry in the United States. Appendix IIc features a table with preliminary rankings for the various policy

options available to PUCs on their relative effectiveness in promoting CCS. Some of the PUC tools that show particular promise and should undergo further analysis include: (a) utility planning and power acquisition activities; (b) project development costs and siting procedures; (c) long-term and short-term cost recovery and ratemaking policies; and (d) supporting policies in areas as diverse as eminent domain and risk management for future releases. It is important to recognize that CCS policies cannot be judged solely by whether they are likely to result in maximum or most rapid deployment of CCS facilities. As with other low-GHG options, such as photovoltaic generation or ethanol production, a variety of competing and complementary goals must be considered. Regulators and other policy-makers value not only rapid deployment of CCS, but also overall cost-effectiveness, driving down cost curves over time, and an equitable balancing of risks between consumers and investors. States have a critical role in the commercialization of CCS technologies and many tools with which to accomplish this vital goal. Implementation of such tools will assist both states and the nation in addressing the emissions from coal-fueled plants.

Although national policy is essential, a proactive approach by state policymakers and regulators to drive CCS can reduce future compliance costs, speed the required technological developments, and pave the way for future national policy. Regardless of the final form of federal greenhouse gas regulations, states have both the authorities and the opportunities to gain experience as first movers and policy innovators, and will play an important role in shaping a low-carbon future.

# Appendix I: Current State and Regional Coal Initiatives

## ARIZONA

### *Existing Regulations and Policies Relevant to CCS*

#### **Executive Order 2006-13**

On September 8, 2006, Arizona Governor Janet Napolitano issued Executive Order 2006-13, which established a statewide goal to reduce Arizona's GHG emissions to 2000 levels by 2020, and 50 percent below 2000 levels by 2040.

Arizona is also a member of the Western Climate Initiative (see below).

## ARKANSAS

### *Existing Regulations and Policies Relevant to CCS*

#### **Arkansas PSC Docket No. 06-154-U, Order No. 5 (March 2, 2007)**

In reviewing an application for a certificate of environmental compatibility and public need for the construction, ownership, operation and maintenance of a coal-fired baseload generating facility, the Arkansas Public Service Commission ordered the applicant to file supplemental testimony regarding, inter alia, why it chose to apply for a coal-fired plant in the face of impending federal regulation of greenhouse gas emissions, whether it had calculated the potential costs for different legislative scenarios, and whether it had considered other options such as IGCC.

## CALIFORNIA

### *Existing Regulations and Policies Relevant to CCS*

#### **AB 32**

Sets a state-wide greenhouse gas emissions cap of 1990 levels by 2020, and represents the first enforceable state-wide program in the U.S. to cap all GHG emissions from major industries that includes penalties for non-compliance. The law requires the State Air Resources Board to establish a program for statewide greenhouse gas emissions reporting and to monitor and enforce compliance with this program. It also authorizes the state board to adopt market-based compliance mechanisms including cap-and-trade, and allows a one-year extension of the targets under extraordinary circumstances.

### **AB 1368**

Requires the public utilities commission, in consultation with the State Air Resources Board and Energy Commission, to establish an emissions performance standard for procurement of baseload generation by load-serving entities. The law set forth the following requirements:

- Long-term financial commitments<sup>109</sup> by load-serving entities or publicly owned electric utilities to purchase baseload generation shall comply with the greenhouse gases emissions performance standard that does not exceed the emissions from a combined cycle natural gas baseload generation plant.
- The public utilities commission may review any proposed long-term financial commitments and shall enforce compliance with the emissions performance standard.
- The public utilities commission shall adopt procedures for load-serving entities to calculate and verify emissions and emissions reductions.

The law also provides the following incentives:

- Timely cost recovery by treating compliance costs as procurements costs incurred pursuant to an approved procurement plan.
- An increase on the return on investment of one-half to 1 percent for the party “entering into the contract with an electrical corporation” that meets the emissions performance standard.

Failure to comply constitutes a crime.

### **PUC Decision No. 07-01-39**

- Established an interim emissions performance standard for baseload generation of no more than the greenhouse gases emitted from a combined cycle natural gas plant.
- Applies to:
  - Load-serving entities
  - Entering long-term financial commitments (new ownership investments or renewal or entrance into power purchase agreements of 5 years or more)
  - Baseload generation (operating at 60% capacity factor)
- Not a portfolio standard; each and every new long-term power contract must meet the standard.

### *Proposed Regulations and Policies Relevant to CCS*

### **AB 705**

Purpose is to develop a framework to advance cost-effective geological sequestration of carbon dioxide.

- Requires cooperation among the Division of Oil, Gas, and Geothermal Resources, the California Environmental Protection Agency, and the Resources Agency to develop standards and regulations for the injection and storage of carbon dioxide.

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<sup>109</sup> Long-term financial commitments are defined as “either a new ownership investment in baseload generation or a new or renewed contract with a term of five or more years.” § 8340(j).

- The Division of Oil, Gas and Geothermal Resources would develop regulations relating to the siting, drilling, monitoring, mitigation of adverse effects, determination of subsurface rights, and closure of a storage site.
- California EPA would be responsible for determining (in collaboration with the EPA) the required composition of the carbon dioxide injected, testing, monitoring, and verification from capture to storage, and procedures for closure of the site.
- The Resources Agency would establish regulations for liability and indemnification.

## COLORADO

### *Existing Regulations and Policies Relevant to CCS*

#### **Colo. Rev. Stat. § 40-2-123 et seq. (2006)**

- Declares supporting deployment of IGCC with CCS that uses western coal is in the public interest.
- Requires commission to give “fullest” consideration to clean energy and efficiency technologies in determining generation acquisitions.
- Limits incentives to power plants:
  - Employing IGCC technology
  - Using Colorado or western coal
  - Not exceeding 350 MW
  - Capturing and sequestering a “portion” of emissions
  - Monitoring the sequestered carbon dioxide and
  - Operating in Colorado
- Provides the following incentives:
  - Waiver of competitive resource acquisition requirement under CPN determination
  - Issuance of declaratory order for cost recovery upon approval of CPN
  - Current recovery of the utility’s weighted average cost of capital through a separate rate adjustment clause
  - Assignment to retail ratepayers of a portion of unrecovered costs from wholesale contracts until utility receives recovery from FERC if the utility applies for recovery within six months of assignment and makes a good faith effort to secure recovery from the wholesale customers.
  - Recovery of:
    - Full life-cycle capital and operating costs
    - Power purchases resulting from planned and unplanned outages during and after initial startup and testing
    - Prudent costs associated with shutdown, decommissioning, or repowering
  - Authorization as component of resource plan upon specified conditions
  - Support in obtaining federal funding
  - Financial support for study, engineering and development from the clean energy development fund

Allowance of the creation by one or more public utilities of a special purpose entity to develop, construct, or own an IGCC facility under this statute.

## CONNECTICUT

### *Existing Regulations and Policies Relevant to CCS*

On August 26, 2001, Connecticut Governor John Rowland signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers. By signing the agreement, Connecticut agreed to reduce its statewide greenhouse gas emissions to 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-85 percent below 2001 levels in the long term.

## DELAWARE

### *Existing Regulations and Policies Relevant to CCS*

#### **HB 6**

This law amended the procedure for standard offer service and returning customer service suppliers to obtain approval for its decisions to meet electric supply requirements. It requires Delaware Power and Light (DP&L) to submit an integrated resource plan to the commission every other year.

- It incentivizes IGCC by explicitly including it in the list of resources that DP&L may consider in its IRP.
- It provides the commission with the authority to approve or modify the RFP. required under the IRP process taking into consideration whether the RFP values the use of new or innovative baseload technologies.
- It allows the commission to evaluate and approve proposals.

#### **PSC Docket No. 06-241**

HB 6 has resulted in a proposal by NRG to build a 600 MW IGCC unit with an option for carbon capture and sequestration. This proposal did not score well in an evaluation prepared for the Delaware Public Service Commission.

## FLORIDA

### *Proposed Regulations and Policies Relevant to CCS*

#### **Executive Order 07-127**

On July 13, 2007, Florida Governor Charlie Crist signed Executive Order 07-127, which sets statewide GHG emission reduction targets of 2000 levels by 2017, 1990 levels by 2025, and 80% below 1990 levels by 2050.

#### **HB 549**

This bill would amend the statute that currently incentivizes the construction of nuclear power plants to include IGCC plants. It provides for expanded cost recovery, waives purchased power supply bidding rules, and limits challenges to cost recovery.

- Costs are defined as all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the plant.
- Preconstruction costs are given deferred accounting treatment accruing a carrying charge equal to the utility's allowance for funds during construction (AFUDC) rate until recovered in rates.
- Alternative mechanisms for cost recovery including
  - recovery through a capacity cost recovery clause for preconstruction costs
  - recovery through an incremental increase in the utility's capacity cost recovery clause rates of carrying costs on the utility's projected construction cost balance
    - Carrying costs for applications submitted on or before December 31, 2010 shall equal the pretax AFUDC in effect at the time of enactment.
    - Carrying costs for applications submitted after December 31, 2010 shall equal the utility's existing pretax AFUDC rate unless the commission determines otherwise
- After a certificate of public need has been granted, the utility may petition for cost recovery.
- Once in commercial service, the utility may increase its base rate charges by its projected annual revenue requirements based on the jurisdictional annual revenue requirements of the plant for the first 12 months of operation. The rate of return on capital investments shall be calculated using the utility's rate of return last approved by the commission before commercial service.
- Retirement of any existing generating plant due to the operation of an IGCC plant shall result in the recovery of the net book value of the retired plant over a period of not more than 5 years. The costs shall be recovered through an increase in base rate charges.
- Prudent preconstruction and construction costs incurred following an approval of need shall be recovered through the capacity cost recovery clause even if the utility does not complete construction.
- Need must be determined within 135 days of the filing of a petition.
- Excludes IGCC plants from requirement to secure competitive proposal for power supply.
- Excludes "any cost increases due to events beyond the utility's control" from a finding of imprudence.
- Costs prior to commercial operation recovered under ch. 366 (CWIP)?

## ILLINOIS

### *Existing Regulations and Policies Relevant to CCS*

On February 13, 2007, Governor Rod Blagojevich of Illinois announced new statewide GHG emission reduction targets of 1990 levels by 2020 and 60 percent below 1990 levels by 2050.

### **Public Acts 92-0012 and 93-0167**

The Illinois Resource Development and Energy Security Act establishes the Coal Revival Program and other provisions that offer prospective developers of clean coal plants a mix of incentives including:

- Up to \$100 million/per plant in grant money for plant design, engineering and construction costs. The state has up to \$500 million dollars in total available for such grants, and the amount of grant money available per project is based on estimated present value of State Retail Occupation Taxes on Illinois coal purchases for the plant over a 25-year period.

- Qualifying projects must propose a 400 MW facility that provides baseload power, or that “propose to construct a coal gasification facility that generates synthesis natural gas, chemical feedstocks or transportation fuels derived from coal.”
- The Illinois Development Finance Authority (IDFA) has authority to issue \$1,400 million in revenue bonds (lower credit rating, higher interest rate than moral obligation bonds) and \$300 million in “moral obligation bonds” (high credit rating, low interest rate) for clean coal projects (both new and conversion plants). Project developers of clean coal projects can apply to the IDFA for financing under this program.
- Developers of a 400 MW electric generating facility or a coal gasification facility may qualify for designation as a “High Impact Business,” and thus qualify for a waiver of IL sales tax on equipment and building materials; an IL investment tax credit; and a public utility tax exemption.
- Facilities designated as a “High Impact Business” may also qualify for local property taxes in IL.

### **220 ILCS 5/9-220(h)**

Allows any gas utility to enter a 20 year supply contract for synthetic natural gas produced from the gasification of coal if the gasification facility has commenced construction by July 1, 2008. Provides that the cost is recoverable through the purchased gas adjustment clause for years 1 through 10 if:

- the gasification facility uses only high volatile bituminous rank coal with greater than 1.7 pounds of sulfur per million Btu content
- the price per million Btu is not more than \$5 in 2004 dollars at the beginning of the contract term and does not exceed \$5.50 at any point during the contract term
- the amount does not exceed 25% of annual system supply requirements
- the contract is entered within one year of the Act and ends 20 years after commencement of gasification.

During years 11 through 20 the commission may decide the cost is imprudent and require the company to reimburse the utility for the difference between the contract price and a prudent price determined by the commission.

### **20 ILCS 605/605-332**

Provides financial assistance for a newly constructed electric generating facility that falls into any of three categories:

- A coal fired plant of at least 400 MW that supports creation of 150 new Illinois coal mining jobs
- Is funded by the federal Department of Energy before December 31, 2007 and supports creation of Illinois coal mining jobs
- Uses coal gasification and supports the creation of Illinois coal-mining jobs

### *Proposed Regulations and Policies Relevant to CCS*

#### **HB 1135 Clean-Coal Project Indemnification Act**

- Requires the Attorney General to appear for and defend any owner or operator of a FutureGen project from liability for the escape or migration of injected carbon dioxide

- Requires the State to indemnify the owner or operator unless it has engaged in intentional, willful or wanton misconduct

### **HB 3733**

- Sets forth a goal of supplying 10% of the energy used in the state from coal gasification or other clean coal technologies by January 1, 2015.

## **INDIANA**

### *Existing Regulations and Policies Relevant to CCS*

#### **IC 8-1-2-6.1** Indiana Coal and Clean Coal Technology; research, development, and preconstruction expenses

- Defines “clean coal technology” as technology (including precombustion technology) that directly or indirectly reduces emissions of sulfur or nitrogen based pollutants from a new or existing electric generating facility and is either
  - Not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989 OR
  - Funded under the Department of Energy’s Innovative Clean Coal Technology program
- Allows recovery as operating expenses of expenses associated with
  - Research and development to increase the use of Indiana coal and
  - Preconstruction costs associated with deploying clean coal technology if
    - The facility utilizes primarily Indiana coal OR
    - Economic considerations or governmental requirements justify using non-Indiana coal
    - Preconstruction costs are only allowed if the commission issued a certificate of need for the project.

#### **IC 8-1-2-6.6** Valuation of property; qualified pollution control property constructed before March 2002

- Definition of clean coal technology is same as above
- Qualified pollution control property is an air pollution control on a coal burning electric generating facility or any equipment that meets the definition of clean coal technology and has been approved for use by the commission, meets applicable state and federal requirements, and is designed to burn coal from the Illinois Basin.
- Allows a utility to request for ratemaking purposes that the commission add to the value of the utility’s property the value of the qualified pollution control property under construction if:
  - The facility burns Indiana coal as its primary fuel source upon operation of the control device OR
  - The utility can prove its decision to use another coal is justified by economic or governmental requirements.

#### **IC 8-1-2-6.7** Depreciation of clean coal technology

- Allows a public or municipally owned electric utility to depreciate clean coal technology over a period of not less than 10 years or the useful economic life of the technology, whichever is less and not more than 20 years if the facility uses or justifies failure to use Indiana coal.

#### **IC 8-1-2-6.8** Valuation of property; qualified pollution control property constructed after March 2002.

- Changes the definition of “clean coal technology” to:
  - Technology that was not in commercial use in the United States at the time of enactment of the federal Clean Air Act Amendments of 1990 OR
  - Technology that has been selected by the Department of Energy for funding under the Innovative Clean Coal Technology and is approved for funding on or after the date of enactment of the clean air act Amendments of 1990.
- Allows utility to request that the commission add the value of the control property under construction to the value of the utility’s property for ratemaking purposes.

#### **IC 8-1-8.7 Clean Coal Technology**

- Same definition as IC 8-1-2-6.1
- Requires consideration of certain factors for determination of public need:
  - Costs compared to conventional facilities
  - Any extension of useful life of facility
  - Potential emissions reductions (sulfur and nitrogen based pollutants)
  - Federal sulfur and nitrogen based pollutant emissions standards
  - Likelihood of success
  - Cost and feasibility of retirement of existing facility
  - Dispatching priority
- Requires filing of estimated costs
- If the commission later revokes certificate of public need, the utility may recover its investment in the technology along with a reasonable return on the unamortized balance.
- Utility may not recover costs in excess of estimates approved by commission unless it proves them to be necessary and prudent
- Allows utility to opt in to ongoing review of construction costs to receive approval of proposed increase in cost estimates. If the commission approves the increase, then challenges to its addition to the rate base on the basis of excessive cost, inadequate quality control, or inability to employ the technology are foreclosed.
- If utility instead decides to put off commission review until after completion,
  - And the commission has annually approved the continuing need for the project then the utility may recover the amount it filed in its application for a certificate of public need and challenges to its inclusion in the rate base are limited to claims of inadequate quality controls.
  - Costs in excess of those approved by the commission shall not be recovered unless the utility shows they were necessary and prudent.

#### **IC 8-1-8.8 Utility Generation and Clean Coal Technology**

- Clean Coal technology includes technology that directly or indirectly reduces emissions of sulfur, mercury, or nitrogen oxides or other regulated emissions and
  - That was not in general commercial use in new or existing facilities in the United States at the time of the enactment of the federal Clean Air Act Amendments of 1990 OR
  - Has been selected by the Department of Energy for funding under its Innovative Clean Coal Technology Program and is approved for funding after the date of enactment of the federal Clean Air Act Amendments of 1990.

- Creates the following financial incentives
  - Timely recovery of costs incurred during construction and operation
  - Up to three percentage points on return on shareholder equity than would otherwise be allowed
  - Financial incentives for purchase of synfuel including cost recovery and higher return
  - Any other financial incentives the commission considers appropriate.
- Requires determination of eligibility within 120 days of application.
- Cost recovery through rate adjustment mechanism

#### **IC 8-1-22.5 Gas Pipeline Safety**

- Includes the “gathering, transmission or distribution...by pipeline; or the storage...of carbon dioxide fluids” in the definition of “transportation.”
- Defines carbon dioxide fluid as a fluid consisting of more than 90% carbon dioxide molecules compressed to a supercritical state

#### *Proposed Regulations and Policies Relevant to CCS*

##### **SB 206**

- Would expand all definitions of clean coal technology in the existing statutes to include emissions associated with coal combustion that are regulated or reasonably anticipated to be regulated by the federal, state, political subdivision of a state, or any agency or unit of the above governments.
- Would add a new section to advance emissions reductions from “existing generating facilities” by allowing
  - Timely cost recovery including capital, operating, maintenance, depreciation, tax and financing costs incurred during construction and operation
  - Recovery of costs for the purchase of emissions allowances or payment of emissions taxes
  - Recovery of up to 3 additional percentage points on rate of return.

##### **HB 1713**

- Requires commission to issue approval or denial within 120 days of application for certificate of public need
- Allows utility to apply for a retail rate adjustment mechanism to provide linear recovery of forecasted costs
- Allows utility to begin recovering costs as soon as all certificates are issued

##### **HB 1714**

- Would allow the commission to consider the ability of a facility to export electricity thereby promoting the use of Indiana coal and the reliability of the regional market when assessing a utility’s long range plan or determining whether to approve a petition for construction, purchase or lease of any facility.
- Would expand the definition of “eligible business” under IC 8-1-8.8-6 from facilities that primarily serve Indiana retail customers to include facilities that serve Indiana customers and sell or export electricity.

##### **HB 1722**

- Expands tax credits for integrated gasification combined cycle to produce electricity to include integrated gasification combined cycle to produce substitute natural gas.

- If the commission approves a contract for the purchase of substitute natural gas then it shall allow cost recovery on a timely basis throughout the contract term for:
  - All costs in connection with purchases under the contract including transportation and storage
  - Costs for replacement gas is seller fails to deliver including additional costs and costs of hedging not paid by seller
  - Other reasonable and necessary associated costs upon petition
- Provides for cost recovery through fuel adjustment or other rate adjustment clause
- Protects the buyer from adverse conditions throughout term of contract
  - Conditions authorization of a customer choice program on a proportionate assignment of a utility's purchase obligation under its contract to the service providers in the program
  - Regardless of market changes, the commission cannot take any action that would negatively affect the utility's cost recovery
  - No other state entity may interfere with cost recovery for the contract
- Financial Incentives
  - Timely cost recovery for new energy producing and generating facilities through a rate adjustment mechanism

## KANSAS

### *Proposed Regulations and Policies Relevant to CCS*

#### **HB 2419**

- Regulation of carbon dioxide injection wells
  - Requires the state corporation commission to adopt rules and regulations for the injection and maintenance of underground storage of carbon dioxide
  - The commission shall establish fees for permitting, monitoring and inspecting the injection wells and underground storage. These fees shall be deposited into a carbon dioxide injection well and underground storage fund.
  - Permit holders must demonstrate annually their financial ability to cover the cost of closure of the facility.
  - The carbon dioxide injection well and underground storage fund may be used to pay for permitting and compliance activities, remediation plans, mitigation of adverse environmental impacts, and legal costs.
  - The commission may assess up to \$10,000 per violation per day.
  - Provides commission with the right to enter upon land to investigate, halt or clean up escape or pollution from a well.
- Income tax reductions and property tax exemptions
  - Allows property tax exemption and a tax deduction from Kansas adjusted gross income for carbon dioxide capture, sequestration or utilization technology and electric generation units which capture and sequester all carbon dioxide and other emissions.

## **HB 2429**

- Creates the Kansas Energy Enhancement and Environmental Reclamation Fund which would provide funding for, inter alia, carbon sequestration research and development.

## **KENTUCKY**

Kentucky requires the establishment of procedures to enable one-stop environmental permitting for coal-fired electric generating plants.

### *Existing Regulations and Policies Relevant to CCS*

#### **KRS 224.10-225**

- Requires the secretary of the Environmental and Public Protection Cabinet to develop procedures for one-stop shopping for environmental permits for coal-fired electric generating plants.

### *Proposed Regulations and Policies Relevant to CCS*

#### **SB 196**

- Applies to “industrial energy facilities” defined as a facility that produces electricity, synfuel, chemicals, or transportation fuels through gasification using coal, coal waste, or biomass and costing over \$750 million at the time of construction.
- Amends KRS 224.10-225 to include “industrial energy facilities” one-stop shopping for environmental permits.
- Requires setting of time limits for action on permits.

Expedites review of decisions in circuit court of the county where the project will be located.

## **MASSACHUSETTS**

### *Existing Regulations and Policies Relevant to CCS*

On August 26, 2001, Massachusetts Governor Jane Swift signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers. By signing the agreement, Massachusetts agreed to reduce its statewide greenhouse gas emissions to 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-85 percent below 2001 levels in the long term.

## **MAINE**

### *Existing Regulations and Policies Relevant to CCS*

On May 21, 2003, Maine Governor John Baldacci signed into law the Act to Provide Leadership in Addressing the Threat of Climate Change, which established statewide GHG emission reduction targets of 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-80 percent below 2003 levels in the long term. Maine set similar targets in 2001 when it signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers.

## MINNESOTA

### *Existing Regulations and Policies Relevant to CCS*

#### **S.F. 145** Next Generation Energy Act

In May 2007, Governor Tim Pawlenty signed into law S.F. 145, the Next Generation Energy Act, establishing statewide GHG emission reduction goals of 15 percent by 2015, 30 percent by 2025, and 80 percent by 2050, based on 2005 levels.

#### **216B.1693** Clean Energy Technology Act

- Defines clean energy technology as technology using coal as the primary fuel in a highly efficient combined-cycle configuration with significant reduction of emissions of criteria pollutants compared to traditional technologies.
- Requires a utility that owns a nuclear generating facility to supply at least two percent of the energy it provides to retail customers from clean energy technology if the commission finds that a clean energy technology is likely to be a least cost resource.

#### **216B.1694** Innovative Energy Project

- Includes IGCC technology as an innovative energy project
- Provides regulatory incentives for innovative energy projects that make a good faith effort to obtain funding from the U.S. Department of Energy and Department of Agriculture for a demonstration project for geologic or terrestrial carbon sequestration.
- Regulatory incentives include
  - Waiver of certificate of need
  - Eligibility for increased capacity without additional review
  - Power of eminent domain for sites and routes approved by the Environmental Quality board
  - Qualifies as a clean energy technology
  - Consideration of the project as a supply option before any approval by the commission to build or expand a fossil-fuel fired facility or purchase power for a period longer than five years from such a facility.
  - Entitlement to a contract with a public utility owning a nuclear facility to provide 450 MW of base-load capacity under a long-term contract
  - Eligibility for a grant of \$2 million/year for five years

## MONTANA

### *Existing Regulations and Policies Relevant to CCS*

#### **HB 25**

- Prohibits the state Public Utility Commission from approving electric generating units primarily fueled by coal unless a minimum of 50 percent of the CO<sub>2</sub> produced by the facility is captured and sequestered. The law applies only to electric generating units constructed after January 1, 2007.

### *Proposed Regulations and Policies Relevant to CCS*

**HB 24**

- Applies common carrier status to pipelines moving carbon dioxide
- Extends the right of eminent domain to underground reservoirs suitable for storing carbon dioxide

**HB 55**

- Authorizes use of state trust lands for carbon sequestration
- Allows lease term of up to 99 years
- Sets forth requirements for procedures and permitting
- Authorizes collection of fees or bond requirements

**HB 227**

- Establishes a revolving loan account for terrestrial carbon sequestration activities.

**HB 282**

- Provides that for permit applications filed after enactment, the Board of Environmental review shall include requirements that all coal-fired electrical generating units sequester or offset 100% of their carbon dioxide emissions.

**SB 105**

- Property tax exemption for carbon capture and storage equipment

**SB 218**

- Requires the Board of Environmental Review to adopt rules for a carbon dioxide sequestration program excluding the injection of carbon dioxide for enhanced oil recovery
- Requires establishment of permitting system, evaluation of sites, recordkeeping and reporting requirements, procedures for well operation, verification and monitoring and mitigation and restoration.
- Authorizes the Board to set fees for permits and penalties of up to \$10,000 per day per violation.

**NEW HAMPSHIRE***Existing Regulations and Policies Relevant to CCS*

On August 26, 2001, New Hampshire Governor Jeanne Shaheen signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers. By signing the agreement, New Hampshire agreed to reduce its statewide greenhouse gas emissions to 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-85 percent below 2001 levels in the long term.

**NEW JERSEY***Existing Regulations and Policies Relevant to CCS*

On July 6, 2007, New Jersey Governor Jon S. Corzine signed into law the Global Warming Response Act, A3301, which limits the level of statewide GHG emissions, and GHG emissions from electricity generated

outside the state but consumed in the state, to 1990 levels by 2020 and to 80 percent below 2006 levels by 2050. These targets were previously set in Executive Order 54 which the Governor signed in February 2007.

## NEW MEXICO

### *Existing Regulations and Policies Relevant to CCS*

#### **Executive Order 2005-033**

On June 9, 2005, New Mexico Governor Bill Richardson issued Executive Order 2005-033, which set state-wide GHG emission reduction targets of 2000 emission levels by 2012, 10 percent below 2000 levels by 2020, and 75 percent below 2000 emission levels by 2050.

### *Proposed Regulations and Policies Relevant to CCS*

#### **SB 994**

- Defines Clean Energy Project as constructing or modifying an electric facility with technology that has increased financial risk due to lack of commercialization generally or under specified conditions that, with respect to carbon dioxide:
  - Captures and sequesters carbon dioxide emissions to the extent that no more than 1100 pounds/MWh are emitted by the later of January 1, 2017 or eighteen months after commercial operation.
- Requires the commission to allow cost recovery for pre-approved development and construction costs of a clean energy project.
  - The utility recovers the approved costs expended at the time the utility files a general rate case regardless of whether the project moves ahead.
  - The utility may also recover, through a general rate case, costs for reducing air emissions below the levels required by law if the commission approves them as reasonable.
- Allows the commission to open a docket to consider performance-based financial or other incentives.
- Provides tax credits for an electric facility that, with respect to carbon dioxide, captures and sequesters its emissions to produce no more than 1100 pounds/MWh by the later of January 1, 2017 or eighteen months after commercial operation.
  - If this level of emissions is not achieved, the taxpayer may be required to refund to the state all or a portion of the tax credits.

## NEW YORK

### *Existing Regulations and Policies Relevant to CCS*

#### **Advanced Clean Coal Power Plant Initiative**

This is an incentive program originally administered through the Governor's Office on Regulatory Reform to work with qualifying developers to build a clean coal plant<sup>110</sup> able to readily incorporate carbon capture and storage technologies (the state hopes to the qualifying project will incorporate CCS as soon as it begins

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<sup>110</sup> In its RFP, ACCPPI, defines "clean coal technology" as "include[ing] integrated gasification combined cycle (IGCC), ultra-supercritical pulverized coal (USC PC) and supercritical fluidized bed combustion technologies (SC FBC). All are capable of meeting very low emission requirements." See New York State Advanced Clean Coal Power Initiative Request for Proposal Addendum C: Statewide Site Evaluation," ACCPPI, September 15, 2006, at pg. 1, available at: [http://www.gorr.state.ny.us/ACCPPI\\_Addendum-C\\_Site\\_Evaluation.pdf](http://www.gorr.state.ny.us/ACCPPI_Addendum-C_Site_Evaluation.pdf).

operation). It chooses a project through a New York Power Authority (NYPA) RFP and provides the winning bidder with the following incentives:

- A power purchase agreement with NYPA
- Potential to have NYPA as a minority share partner
- Clean Coal fund of \$10 million/year for 5 years to implement CCS
- Up to \$200 million/year in bonding authority
- Empire Zone benefits (tax credits) regardless of location

The initiative also created a “Shovel-Ready Team” which evaluated over 120 sites for the development of facilities with carbon capture and sequestration. It pre-qualified 25 sites, a valuable exercise for future CCS projects. The team included representatives from the NY Governor’s Office of Regulatory Reform (GORR), the NY Power Authority (NYPA), New York State Energy Research and Development Authority (NYSERDA), the NY Department of Environmental Conservation (DEC), the Empire State Development (ESD), and the NY Public Service Commission (PSC).

ACCPPI issued an RFP for developers’ proposals for coal plants of up to 600 MW on September 1, 2006, and in December 2006 NYPA announced the conditional awarding of a PPA to NRG Energy for its proposed strategic alliance to build a clean coal power plant at its Huntley Generating Station in the Town of Tonawanda in Erie County. The proposed plant will be a 680 MW IGCC plant. However, the cost of the proposal (over \$1 billion) was considered too high for NYPA. Instead, the parties have entered into a “strategic alliance” to work together to make the project financially feasible.

### **State GHG Targets**

In June 2002, the State Energy Planning Board released The 2002 State Energy Plan and Final Environmental Impact Statement, which established goals to reduce statewide GHG emissions to 5 percent below 1990 levels by 2010, and 10 percent below 1990 levels by 2020.

## **NORTH DAKOTA**

### *Existing Regulations and Policies Relevant to CCS*

#### **NDCC 49-19-01 et seq.** (Pipeline)

- North Dakota’s existing statute governing common pipeline carriers includes the transport of carbon dioxide. It denotes such a pipeline as a common carrier and extends the same rights and obligations to carbon dioxide pipelines including the power of eminent domain and the obligation to carry without discrimination.

#### **NDCC 49-05-16** (Advance Prudence)

- Provides the opportunity for an “advance prudence review” of proposals to construct, lease, or modify an energy facility or to purchase power.
- Requires the utility to file an estimate of costs
- Requires the commission to enter an order within seven months of the application

- Is binding for ratemaking purposes
- Subjects the project to annual review
- Allows recovery (including interest expense and a return on equity) even if subsequent review determines the project is no longer prudent and should not be completed.
- Eligibility for a grant of \$2 million/year for five years.

## OHIO

### *Existing Regulations and Policies Relevant to CCS*

#### **RC § 1555.01**

- Defines coal research and development as projects to advance scientific or technical knowledge or use existing or new knowledge to use Ohio coal in an environmentally acceptable manner
- Defines coal research and development facilities as building, structures and other improvements, equipment and other property, real and personal or modification or replacement of property for coal research and development
- Defines coal research and development project as any of the above within the state of Ohio that is being paid for in part or whole from a loan or grant from the Ohio coal development office.
- Defines cost expansively as the cost of acquisition and construction, cost of acquisition of all land, property rights, easements, and interests required for such acquisition and construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery, furnishings, and equipment, financing charges, interest prior to and during construction and for no more than eighteen months after completion of construction, engineering, legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital, other expenses necessary to determining the feasibility or practicability of acquiring or constructing such project, administrative expense, and such other expense as may be necessary to the acquisition or construction of the project, the financing of such acquisition or construction, and the financing of the placing of such project in operation. Any obligation, cost, or expense incurred by any such person or educational or scientific institution for surveys, borings, preparation of plans and specification, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a project may be regarded as a part of the cost of such project.

#### **RC § 4901:1-12-01**

- Provides for a special cost adjustment mechanism through a provision in the schedule of a gas or natural gas company that allows recovery on a uniform basis for Ohio coal research and development costs rather than going through a rate case.
- Establishes a method to separate Ohio coal research and development costs from all other costs of gas or natural gas companies.
- Allows recovery through a semiannually updated coal research and development rate.
- Establish procedures for investigation and review of a company's coal research and development projects and recovery of costs.

- Requires monthly and semiannual reports on the coal research and development costs and funding received through grants to ensure that only net costs are recovered by the company
- Sets forth the method for calculating the research and development rate which involves subtracting the costs to be refunded from the costs to be recovered and requires reconciliation for any under or over-recoveries.
- Requires inclusion of the coal research and development rate in costs per Mcf or Ccf and the total charge for the rate in dollars and cents on customer bills.

#### **OAC ch. 4906.02**

- Establishes the Ohio Power Siting Board which consists of the chairperson of the public utilities commission, the directors of the environmental protection, health, development, natural resources, agriculture and a representative from the public.
- This is essentially a one-stop shopping agency for siting permits.

#### **OAC ch. 4906.03**

Sets forth the duties of the Ohio Power Siting Board

- Provides the board with authority to create an abbreviated review process for a construction certificate for construction of a major utility facility related to a coal research and development project.(funded by the Ohio coal development office)
- Requires the board to reach a decision on an application for construction within 90 days of receiving the application and all required supporting materials.

#### **OAC ch. 4906.04**

- Requires any developers of a new major utility facility to obtain a certificate of environmental compatibility and public need from the Ohio Power Siting Board.

#### **OAC ch. 4906.13**

Certification by the Ohio Power Siting Board exempts its holder from the jurisdiction of any other state or local agency.

#### **OAC ch. 4906.14**

Authorizes the power siting board to make joint investigations, hold joint hearings, and issue joint order in conjunction or concurrence with any official or agency of any state or the United States

#### **Ohio PUC Case No. 05-376-EL-UNC (April 10, 2006)**

- Ordered that AEP, as a provider of last resort, recover its phase I (preconstruction costs) for an IGCC plant through a bypassable surcharge.
- Decided to address phase II and III costs in separate proceedings.
- Establishes one of the most comprehensive definitions of costs to be included in recovery for clean coal development projects. Allowable costs include:
  - the cost of acquisition and construction; the cost of acquisition of all land, property rights, easements, and interests required for such acquisition and construction; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to

which such buildings or structures may be moved; the cost of all machinery, furnishings, and equipment; financing charges; interest prior to and during construction and for no more than eighteen months after completion of construction; engineering; legal expenses, plans, specifications, surveys, estimates of cost and revenues, working capital; other expenses necessary to determining the feasibility or practicability of acquiring or constructing such a project; administrative expense; and such other expense as may be necessary to the acquisition or construction of the project, the financing of such acquisition or construction, and the financing of the placing of such project in operation.

- Any obligation, cost, or expense incurred by any such person or educational or scientific institution for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the acquisition or construction of a project may be regarded as a part of the cost of such project.

## OREGON

### *Existing Regulations and Policies Relevant to CCS*

#### **HB 3543**

On August 6, 2007, Oregon Governor Ted Kulongoski signed House Bill 3543, which set statewide GHG emission targets for the state. HB 3543 directs the state to stop the growth of greenhouse gas emissions by 2010 and to reduce GHG emissions to 10 percent below 1990 levels by 2020 and to 75 percent below 1990 levels by 2050.

#### **ORS 469.503 and OAR 345-024-0500 et seq.**

This statute requires the Oregon Energy Facility Siting Council to establish emissions performance standards for new electric generating facilities. The statute initially set the limit for natural gas fired baseload generating plants at 0.70lb/kwh. The Council has since reduced this rate to 0.675lb/kwh. The statute also requires the Council to establish emissions performance standards for other fossil-fueled generating units, but the Council has not yet adopted a standard. These standards may be met by offsets or by paying a fee per ton of carbon dioxide

#### **Public Utility Commission Order No. 07-018 (Docket UM 1208) (January 16, 2007)**

- Discussed concerns about the sufficiency of Pacificorp's carbon adders. Deferred decision to Docket UM 1056.

#### **Public Utility Commission Order No. 07-002 (Docket UM 1056)**

- Adopted new guidelines for its integrated resource planning process. Guideline 8 addressed the use of carbon adders: "Utilities should analyze the range of potential CO<sub>2</sub> regulatory costs in Order No. 93-695, from zero to \$40 (1990\$)."

## PENNSYLVANIA

### SB 1030

- Alternative Energy Portfolio Standard, requiring that qualified power sources provide 18.5 percent of Pennsylvania's electricity by 2020. There are two tiers of qualified sources that may be used to meet the standard. Tier 1 sources must make up 8 percent of the portfolio, and include wind, solar, coalmine methane, small hydropower, geothermal, and biomass. Tier 2 sources make up the remaining 10 percent of the portfolio, and include waste coal, demand side management, large hydropower, municipal solid waste, and coal integrated gasification combined cycle power generation.

## RHODE ISLAND

### *Existing Regulations and Policies Relevant to CCS*

On August 26, 2001, Rhode Island Governor Lincoln Arnold signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers. By signing the agreement, Rhode Island agreed to reduce its statewide greenhouse gas emissions to 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-85 percent below 2001 levels in the long term.

### RI Gen. Laws § 42-98-2, § 42-98-3

- The state energy facilities siting board grants priority to projects based on several criteria, one of which is the use of coal processed by clean coal technology. Rhode Island defines clean coal technology as a technology developed in the U.S. Department of Energy's clean coal technology program and shown to produce emission levels substantially equal to those of natural gas fired power plants. The DOE's Clean Coal Power Initiative provides government co-financing for new coal technologies that can help utilities meet the President's Clear Skies Initiative to cut sulfur, nitrogen and mercury pollutants from power plants by nearly 70 percent by the year 2018.

## TEXAS

### HB 149

- 2006 legislation that instructs the Railroad Commission of Texas to acquire ownership of carbon dioxide captured by a FutureGen project located in the state (FutureGen is a proposed U.S. DOE demonstration of the integration of IGCC, hydrogen production, and CCS). This would relieve the entity operating a FutureGen project of potential liability for the carbon dioxide captured and sequestered.

## VERMONT

### *Existing Regulations and Policies Relevant to CCS*

On August 26, 2001, Vermont Governor Howard Dean signed onto The Climate Change Action Plan developed by The New England Governors and the Eastern Canadian Premiers. By signing the agreement, Vermont agreed to reduce its statewide greenhouse gas emissions to 1990 levels by 2010, 10 percent below 1990 levels by 2020, and 75-85 percent below 2001 levels in the long term.

## WASHINGTON

### *Existing Regulations and Policies Relevant to CCS*

#### **RCW 70.94.892 Carbon dioxide mitigation—fees**

- Requires the department or local air agency to keep a record of its costs for reviewing carbon dioxide mitigation plans and allows the department or local air agency to collect fees to cover those costs.

#### **RCW 80-70-010 et seq.**

- Requires carbon mitigation plans for new fossil fueled power plants or fossil fueled power plants that increase their emission of carbon dioxide by fifteen percent or more through modification.
- In order to receive a site certificate, a facility must have a plan to offset 20% of its carbon dioxide emissions through either:
  - Payment to a third party for carbon mitigation
  - Direct purchase of permanent carbon credits
  - Investment in “applicant-controlled” mitigation projects (e.g. cogeneration)

#### **SB6001**

Essentially follows the lead of California’s AB 1368.

- Section 2 sets goal of reducing greenhouse gas emissions to 1990 levels by 2020 and by 2050 to the lesser of 50% of 1990 levels or 70% below the projected annual emissions for 2050.
- Section 7 requires the commission to establish by July 1, 2008, an emissions performance standard that does not exceed the greenhouse gas emissions from a combined cycle natural gas plant providing baseload generation.
- Applies to investor or consumer owned utilities, long-term financial commitments, and baseload generation.
- Section 7 directs that geologically sequestered carbon dioxide shall not be included in the calculation of emissions.
- Section 8 allows for a case-by-case exemption from the emissions performance standard.

## WEST VIRGINIA

### *Existing Regulations and Policies Relevant to CCS*

#### **WVC 24-2-1g**

Requires the commission to authorize rate incentives for utilities that invest in or purchase electricity from clean coal and clean air technology facilities.

### *Proposed Regulations and Policies Relevant to CCS*

#### **Senate Concurrent Resolution No. 54**

- Resolves to:
  - Study sequestration of carbon dioxide
  - Study legislative options to give West Virginia a competitive advantage in attracting fossil fuel projects through comprehensive carbon dioxide sequestration statutes.
  - Study terrestrial sequestration
  - Study the legislative measures that should be applied to modeling and monitoring

#### **SB 631**

Creates the West Virginia Clean Coal Technology Council to promote the identification and advancement of cleaner coal-fired generation technologies through the coordination and oversight of pilot projects.

### **WISCONSIN**

#### *Proposed Regulations and Policies Relevant to CCS*

#### **Docket 9300-GF-176**

This docket evaluated the following potential regulatory incentives for IGCC plants:

- Allowing IGCC applicants to provide detailed information about only one site rather than two.
- Encouraging IGCC brownfield or refueling projects by allowing the two-site requirement to be met by evaluating two sites at the same existing generation plant.
- Exempting IGCC proposals from a law requiring new plants to be located at brownfield sites.
- Monetizing greenhouse gas emissions in the resource planning process by using carbon adders.
- Classifying IGCC as best available control technology
- Establishing carbon dioxide performance standards
- Modifying RPS to allow credits for IGCC plants
- Modifying the Wisconsin's load-ordering statute to place IGCC with sequestration above other coal options or giving it the same priority as renewables.
- Giving preference to IGCC proposals with performance guarantees.
- Offering environmental trust bonds.
- Allowing a higher rate of return.
- Placing emissions caps on the purchasers of electricity to encourage power purchases from IGCC plants with capture and sequestration.
- Preapproving cost recovery.

## WYOMING

### *Existing Regulations and Policies Relevant to CCS*

#### **Wyoming Infrastructure Authority**

This agency was established in 2004 and its mission was expanded in 2006 to take advantage of the incentives offered in the Energy Policy Act of 2005. The Authority issues an RFP for its “Wyoming Integrated Coal Gasification Demonstration Project” in July of 2006. The Authority may issue up to \$1 billion in bond financing for private projects or may enter into public private partnerships. Responses to its RFP would need to propose a plant located at 4,000 feet above sea level in Wyoming, using Wyoming Coal with an energy content of 9,000 Btu/lb or less, and deploying IGCC technology with carbon capture and sequestration.

The Authority has yet to choose a winning bidder.

Although not traditionally focused on long-term carbon sequestration, Wyoming is also home to a significant amount of carbon sequestration for enhanced oil recovery (EOR) purposes— with approximately 5 million tons/yr (t/y) sequestered at sites in the state.<sup>111</sup> Tertiary EOR projects in Wyoming are aided by an excise tax reduction (from 6% to 4%) for the first five years of production. And, continued high oil prices are expected to lead to the expansion of possibly 2.5 million t/y of additional EOR activity in Wyoming.<sup>112</sup>

## REGIONAL INITIATIVES :

#### **Midwestern Regional Greenhouse Gas Reduction Accord**

In November 2007, six states and one Canadian Province established the Midwestern Regional Greenhouse Gas Reduction Accord. Under the Accord, members agree to establish regional greenhouse gas reduction targets, including a long-term target of 60 to 80 percent below current emissions levels, and develop a multi-sector cap-and-trade system to help meet the targets. Participants will also establish a greenhouse gas emissions reductions tracking system and implement other policies, such as low-carbon fuel standards, to aid in reducing emissions. The Governors of Illinois, Iowa, Kansas, Michigan, Minnesota, and Wisconsin, as well as the Premier of the Canadian Province of Manitoba, signed the Accord as full participants; the Governors of Indiana, Ohio, and South Dakota joined the agreement as observers. The Accord represents the third regional agreement among U.S. states to collectively reduce greenhouse gas emissions, and will be fully implemented within 30 months.

#### **Midwestern Energy Security and Climate Stewardship Platform**

In November 2007, the Governors of 11 midwestern states and the Premier of one Canadian province individually adopted all or portions of an Energy Security and Climate Stewardship Platform. The state of Missouri later adopted portions of the agreement as well. The Platform lists goals for energy efficiency improvements, low-carbon transportation fuel availability, renewable electricity production, and carbon capture and storage development. In addition to goals related to energy efficiency, renewable energy sources, and biofuel production, the Platform lays out explicit objectives with respect to carbon capture and storage. Members agree to have in place a regional regulatory framework for CCS by 2010, and by 2012, to have sited and permitted a

<sup>111</sup> Coal Working Group, at 6 (citing Nuedal et al.)

<sup>112</sup> Coal Working Group, at 30.

multi-jurisdiction CO<sub>2</sub> transport pipeline and have in operation at least one commercial-scale coal-powered IGCC power plant with CCS, with additional plants to follow in succeeding years. By 2020, all new coal plants in the region will capture and store CO<sub>2</sub> emissions. The Platform lays out a number of policy options for member states to consider as they work towards these goals, including policies that will

- 1) advance a regional CCS infrastructure and a legal/regulatory framework for management and storage of capture CO<sub>2</sub>, including assistance for geologic storage demonstrations, Enhanced Oil Recovery Projects, and reservoir assessments;
- 2) provide financial and regulatory incentives to building coal-fired plants incorporating CCS, such as state support for front-end engineering and design, utility cost recovery for certain commercial projects, and generally modifying state policies to favor CCS over traditional coal-fired power plants.

States adopting all or part of the Platform include Wisconsin, Minnesota, South Dakota, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, and Ohio, as well as the Canadian Province of Manitoba.

#### **Western Climate Initiative**

On February 26, 2007, Governors Napolitano of Arizona, Schwarzenegger of California, Richardson of New Mexico, Kulongoski of Oregon, and Gregoire of Washington signed an agreement establishing the Western Climate Initiative, a joint effort to reduce greenhouse gas emissions and address climate change. The states of Montana and Utah as well as the Canadian provinces of British Columbia and Manitoba, have since joined the Initiative. In August 2007, WCI members jointly set a regional, economy-wide greenhouse gas emissions target of 15 percent below 2005 levels by 2020, or approximately 33 percent below business-as-usual levels. By August 2008, participants will design a market-based system—such as a cap-and-trade program covering multiple economic sectors—to aid in meeting the target. Alaska, Colorado, Idaho, Kansas, Nevada, and Wyoming, as well as the Canadian provinces of Ontario, Quebec, and Saskatchewan and the Mexican state of Sonora, are all observing the WCI process.

#### **Regional Greenhouse Gas Initiative (RGGI)**

On December 20, 2005, the governors of seven Northeastern states announced the creation of the Regional Greenhouse Gas Initiative (RGGI). The governors of Connecticut, Delaware, Maine, New Hampshire, New Jersey, New York, and Vermont signed a Memorandum of Understanding agreeing to implement the first mandatory U.S. cap-and-trade program for carbon dioxide. Maryland, Massachusetts, and Rhode Island all joined RGGI in 2007, bringing the total number of participating states to ten. RGGI sets a cap on emissions of carbon dioxide from power plants, and allows sources to trade emissions allowances. The program will begin by capping emissions at current levels in 2009, and then reducing emissions 10% by 2019. Pennsylvania and the District of Columbia are observers in the RGGI process.

#### **Western Governors' Association (WGA) Clean and Diversified Energy Initiative**

In June 2004, the Western Governors' Association (WGA) unanimously resolved to examine the feasibility of and actions required to reach a goal of adding 30,000 megawatts of clean energy by to the region by 2015 as well as achieving a 20 percent improvement in energy efficiency by 2020. The Governors also resolved to examine what is needed to meet the West's generation and transmission needs over the next 25 years.

To investigate the feasibility of these goals and how they might be advanced, the WGA formed its Clean and Diversified Energy Advisory Committee. Based on the findings of the Committee, in 2006 the Western Governors' Association (WGA) passed a resolution reiterating their energy goals and outlining in greater detail how they might be achieved. The Governors' actions developed out of a shared desire to protect against energy shortages and price spikes, accommodate the population's growing energy needs, position the Western energy system to respond to environmental challenges, and take advantage of new technologies that will lower the cost of renewable energy and of controlling emissions from the fossil fuel resource base.<sup>113</sup> The first annual report tracking progress towards these goals was released in June 2007.<sup>114</sup>

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<sup>113</sup> For more information on recent developments under the Initiative, see <http://www.westgov.org/wga/initiatives/cdeac/index.htm>

<sup>114</sup> See "Clean Energy, a Strong Economy, and a Healthy Environment: Western Governors' Association Clean and Diversified Energy Initiative 2005-2007 Progress Report." Western Governors' Association, June 2007. Available online at <http://www.westgov.org/wga/publicat/CDEACReport07.pdf>.

# Appendix IIa

**Table of PUC Regulatory Incentives for CCS (see Key below)**

|                         | CO | FL | IL | IN    | KY | MN | MT | ND | NM | NY | OH | TX | WI | WV |
|-------------------------|----|----|----|-------|----|----|----|----|----|----|----|----|----|----|
| <b>Cost Recovery</b>    |    |    | 3  |       |    |    |    |    |    |    |    |    |    |    |
| Preapproval             | 1  |    |    | 4,3,2 |    |    |    | 1* |    |    | 1† |    |    |    |
| Timely Recovery         | 1  | 4  |    | 4,3,2 |    |    |    |    |    |    |    |    |    |    |
| CWIP/Current            | 1  | 4  | 3  |       |    |    |    |    |    |    |    |    |    |    |
| Rate Adjustment Clauses | 1  | 4  |    | 4,3   |    |    |    |    |    |    |    |    |    |    |
| Pre-construction        | 1  | 4  |    | 2     |    |    |    |    | 2  |    | 1† |    |    |    |
| Power Purchases         | 1  |    |    | 4     |    |    |    |    |    |    |    |    |    |    |
| Higher Return           |    |    |    | 3,2   |    |    |    |    |    |    |    |    | 4  |    |
| Full life-cycle costs   |    |    |    |       |    |    |    |    |    |    |    |    |    |    |
| Cancellation            | 1  | 4  |    | 3     |    |    |    |    | 2  |    |    |    |    |    |
| Other                   |    | 4  |    |       |    |    |    |    |    |    |    |    | 4  |    |
| <b>Exemptions</b>       |    |    |    |       |    | 1  |    |    |    |    |    |    |    |    |
| CPN                     |    |    |    |       |    |    | 2  |    |    |    |    |    |    |    |
| Competitive Acquisition | 1  | 4  |    |       |    |    |    |    |    |    |    |    |    |    |
| Other                   |    |    |    |       |    |    | 2  |    |    |    |    |    | 4  |    |
| <b>Expedited Review</b> |    |    |    |       |    |    |    |    |    |    |    |    |    |    |
| CPN                     |    | 4  |    | 4     | 4  |    |    |    |    |    |    |    |    |    |
| Siting                  |    |    |    |       | 4  |    | 2  |    |    | 1  | 1  |    |    |    |
| Cost Recovery           |    |    |    | 3     |    |    |    | 1* |    |    |    |    |    |    |
| Financial Incentives    |    |    |    | 3     |    |    |    |    |    |    |    |    | 4  | 1* |
| <b>Other</b>            |    |    |    |       |    | 1  |    |    |    |    |    |    |    |    |
| Guaranteed Buyer        |    |    | 1  |       |    |    |    |    |    | 1  |    |    |    |    |
| Indemnity               |    |    |    |       |    | 1  |    |    |    |    |    | 1  |    |    |
| Eminent Domain          |    |    |    |       |    |    | 2  |    |    |    |    |    |    |    |

Key:

1 = CCS Statute 3 = IGCC Statute

2 = CCS Proposal 4 = IGCC Proposal

\*Statute applies to all projects

†Order or decision of public utilities commission

# Appendix IIb

## State Funding and Regulatory Incentives for CCS

|                      | CA | CO | FL | IL | IN | KY | KS | MN | MT | ND | NM | NY | OH | OR | WA | WI | WV |
|----------------------|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| <b>State Funding</b> |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Bonds                |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Incentive Adder      |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Grants               |    | X  |    |    |    |    | X  | X  | X* |    |    |    |    |    |    |    |    |
| Tax Credits          |    |    |    |    |    |    |    |    |    |    | X  |    |    |    |    |    |    |
| Tax Exemptions       |    |    |    |    |    |    | X  |    | X  |    |    |    |    |    |    |    |    |
| Depreciation         |    |    |    |    | X  |    | X  |    |    |    |    |    |    |    |    |    |    |
| <b>Regulation</b>    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Permitting           | X  |    |    |    |    |    | X  |    | X  |    |    |    |    |    |    |    | X  |
| Pipelines            |    |    |    |    | X  |    |    |    | X  | X  |    |    |    |    |    |    |    |
| Liability            |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    |
| Carbon Adder         | X  |    |    |    |    |    |    |    |    |    | X  |    |    | X  | X  | X  |    |
| EPS                  | X  |    |    |    |    |    |    |    | X  |    |    |    |    | X  | X  | X  |    |
| Modified RPS         |    |    |    |    |    |    |    |    |    |    |    |    |    |    |    | X  |    |

\* Terrestrial sequestration

## Appendix IIc

**Preliminary Criteria and Comparison of Regulatory Policies Designed to Advance CCS Projects**

|                                              | EPS                  | Preapproval   | Higher Returns | Outages | Cancellation | Retirement                  | Consolidated Siting Board | Preapproved Sites             | Waiver of Competitive Resource Acquisition | Guaranteed Buyer |
|----------------------------------------------|----------------------|---------------|----------------|---------|--------------|-----------------------------|---------------------------|-------------------------------|--------------------------------------------|------------------|
| Accelerates CCS                              | Medium               | Medium        | High           | High    | High         | Medium                      | High                      | High                          | High                                       | High             |
| Deters PC Investments                        | Very High            | Neutral       | Neutral        | Neutral | Neutral      | Medium                      | Neutral                   | Neutral                       | Neutral                                    | Neutral          |
| Accountability Encourages Prudent Management | Normal               | Low to Medium | Low            | Low     | Low          | Neutral                     | Neutral                   | Medium                        | Neutral                                    | Low              |
| Limits Power Supply Cost Premium             | Medium               | Medium        | Negative       | Low     | Low          | Low                         | Medium (lowers costs)     | Medium                        | Low                                        | Low              |
| Controls Administrative Costs                | High                 | Low           | Medium         | Neutral | Neutral      | Neutral                     | High                      | Medium                        | High                                       | Neutral          |
| Balances Risks Fairly                        | Neutral              | Medium to Low | Low            | Low     | Low          | Medium                      | Neutral                   | Medium                        | Medium to Low                              | Low              |
| Promotes Innovation                          | High                 | Medium        | Medium         | Medium  | High         | Medium                      | Medium                    | Medium                        | Medium                                     | Medium to High   |
| Secures Significant Carbon Reductions        | High (due to PC bar) | Medium        | Medium         | Low     | Neutral      | Medium (due to retirements) | Medium                    | High (good sites for storage) | Medium                                     | Medium           |

## For more information:

Dustin Bleizeffer, "Wyoming lines up 'clean' coal request," *Casper Star-Tribune*, energy, November 12, 2006, [http://www.casperstartribune.net/articles/2006/11/12/news/top\\_story/e00e9282acc065ee8725722300268065.txt](http://www.casperstartribune.net/articles/2006/11/12/news/top_story/e00e9282acc065ee8725722300268065.txt)

Ellenbecker, Steven. "Energy and Climate Change in the West," workshop presentation at Innovative Approaches to Climate Change: A State and Regional Workshop, Pew Center on Global Climate Change, October 10, 2006, Washington, D.C., available at: [http://www.pewclimate.org/what\\_s\\_being\\_done/in\\_the\\_states/state\\_action\\_events/state\\_\\_\\_regional\\_ws.cfm](http://www.pewclimate.org/what_s_being_done/in_the_states/state_action_events/state___regional_ws.cfm).

"Energy Security and Climate Stewardship Platform for the Midwest." November 2007; available online at <http://www.wisgov.state.wi.us/docview.asp?docid=12495>.

Nuedal, D, Towler, B., Mason, C. and Allen, M. (2003), The Potential of Oil Recovery in Wyoming, The University of Wyoming, April 2003 and Hargrove, B. (2004), Presentation at the 2004 Enhanced Oil Recovery Carbon Management Workshop, The University of Texas of the Permian Basin, Midland, TX <http://www.spe-pb.org/en/art/?23#eor>.

Pena, Naomi and Rubin, Edward S. *A Trust Fund Approach to Accelerating Deployment of CCS: Options and Considerations*. Pew Center on Global Climate Change, January 2008. Available online at [http://www.pewclimate.org/white\\_papers/coal\\_initiative/trust\\_fund](http://www.pewclimate.org/white_papers/coal_initiative/trust_fund).

Vello, Kuuskraa A. *A Program to Accelerate the Deployment of CO<sub>2</sub> Capture and Storage: Rationale, Objectives, and Cost*. Pew Center on Global Climate Change, October 2007. Available online at [http://www.pewclimate.org/white\\_papers/coal\\_initiative/ccs\\_demo](http://www.pewclimate.org/white_papers/coal_initiative/ccs_demo)

This paper provides an overview of the policy options available to states to encourage the deployment of carbon capture and sequestration technologies for coal-fueled power plants, including those policy tools available to state public utility commissions. It is part of a Pew Center on Global Climate Change Coal Initiative, a series of reports examining and identifying policy options for reducing coal-related GHG emissions. The Pew Center brings a cooperative approach and critical scientific, economic, technological, business and policy expertise to the global climate change debate at the state, federal and international levels.



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**KNOWLEDGEPLEX  
WEEK IN REVIEW  
MARCH 5, 2008**

# WEEK IN REVIEW

SUNDAY MONDAY TUESDAY WEDNESDAY THURSDAY FRIDAY SATURDAY



## The Housing and Community Development Newsletter

By KnowledgePlex Editors Lora Engdahl, Andy Stone, and Bill Talcott

### News

- **FHA Reform Set to Move Forward**
- **Affordability Requirements Face Legal Showdowns**
- **Counties Assess Demand for Low-Cost Homes**
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- **New Orleans Launches Recovery Project Status Web Site**
- **Market Woes Spotlight Costs of Growth**
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- **Gentrification Fears Plague Redevelopment Plans**
- **Hip-Hop's 'Birthplace' Threatened**
- **State Homeless Efforts Stress 'Housing First'**
- **Cities To Expand Housing With Services for Homeless**
- **Programs Meet San Francisco's Homeless Where They Are**
- **Foundation Takes a Risk to Grow a Nonprofit**

### Announcements

- **Audio Conference: Local Housing Subsidy Programs, March 13**
- **Expert Chat: Complying with the Violence Against Women Act, March 20**
- **NAHRO Legislative Conference, March 31-April 2**
- **April 1st Deadline for 2008 Innovations in Manufactured Homes Program**
- **ULI Green Development Conference, April 7-8**
- **Gauging Markets Conference, April 9-10**
- **Rose Architecture Fellowship Applications Due April 25**
- **Consumer Credit Symposium Papers Online**
- **NPR Series Looks at Land-Use Decisions**



### What's New



#### **Expert Chat: Violence Against Women Act and Public Housing** Thursday, March 20 at 2:00 ET

The 2005 reauthorization of the Violence Against Women Act ("VAWA") included important new housing provisions to protect victims of domestic violence. While VAWA is a powerful tool for Housing Authorities and Section 8 landlords and owners, HUD has issued little guidance for implementing the law. As a result, many affected organizations and people are unclear about their rights and obligations. Join **KnowledgePlex** and the **National Law Center on Homelessness & Poverty** for this online discussion of VAWA. Our experts will provide insights to the law; present innovative examples of its implementation; and will strategize with participants for implementing it in their own jurisdictions.

For more information and to join the discussion, [click here](#).

## FHA Reform Set to Move Forward

In a bid to move forward on Federal Housing Administration reform, House Financial Services Chairman Barney Frank (D-Mass.) agreed to drop from the FHA-reform bill a House-passed provision

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#### **Negotiators Resolve FHA Obstacle**

02/28/2008 | Congressional Quarterly Today

creating an affordable housing trust fund, reported *Congressional Quarterly*. The fund was the main barrier to passing the bill, which could help prevent foreclosures by making it easier for some homeowners to refinance into lower-cost, FHA-backed home loans. Housing advocates don't consider the elimination of the affordable housing trust fund a total defeat, the article said. The fund would have drawn monies from revenue created by eliminating a cap on reverse mortgages, which are offered to seniors through a government program that earns revenue for the government. Under the compromise measure still in play, the cap on reverse mortgages will be raised annually, enabling trust fund backers to try again down the road.

## Affordability Requirements Face Legal Showdowns

Seven cases relating to Massachusetts' Chapter 40B affordable housing law were recently argued before the state Supreme Judicial Court, which is expected to issue rulings within 130 days, reported *The Boston Globe*. Under Chapter 40B, developers who reserve at least 25 percent of their projects as affordable housing can bypass local zoning laws if less than 10 percent of the housing stock in the municipality is deemed affordable. Many local officials criticize the law, saying it impinges on their capacity to manage growth. Housing advocates defend the law, saying it is a necessary tool to address a serious shortage of affordable housing. Both sides say they welcome court action to clarify longstanding differences over interpretation of the law. For example, two cases involve questions about communities reaching the 10 percent affordability threshold while a developer is appealing a rejection of a 40B project.

The economic downturn hastened an inevitable lawsuit against Santa Fe, N.M., city and county for their inclusionary zoning rules, one of the plaintiffs told the *Albuquerque Journal*. The city's requirement that 30 percent of the homes in all new subdivisions be sold at "affordable" prices below \$200,000 is among the toughest nationwide, the article said. In the suit filed in U.S. District Court, residential developer Dennis Branch and three co-plaintiffs believe that it is unfair to make a dozen or so people, out of a population of 150,000, pay for the area's affordable housing. The requirement has shut down some developers, Branch says. But according to Santa Fe Mayor David Cross, the city shares the financial burden of creating affordable housing by waiving impact fees for builders who abide by the laws. "There are a lot of developers that are making it work," Cross said.

## Counties Assess Demand for Low-Cost Homes

A study commissioned by the Suffolk County, N.Y. Legislature and performed by Rutgers University found that the county needs 30,000 additional affordable homes by 2020, reported *Long Island Business News*. To create the needed 2,000 new units annually, the county should consider inclusionary zoning, mortgage taxes, rent subsidies, and increasing building fees for home renovations by 10 percent, said the study's author, Robert Burchell. An inclusionary zoning law should require developments with

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#### **SJC Rulings Expected to Clarify 40B**

02/24/2008 | The Boston Globe

#### **Developers Challenge Ordinance's Affordability Requirements**

02/27/2008 | Albuquerque Journal (New Mexico)

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#### **Rutgers Researchers Reiterate Suffolk County's Workforce Housing Need**

02/25/2008 | Long Island Business News (Long Island, NY)

#### **Only Nine Qualify for Subsidized Houses**

02/29/2008 | The Baltimore Sun

more than five units to reserve 20 percent of the units for homes affordable to households making up to 120 percent of the county median income, he said. An inclusionary zoning plan with a 10 percent affordable set-aside is under consideration in the Legislature. State lawmakers are also considering a plan offering incentives to towns in seven downstate counties to create more affordable housing, the article said.

Howard County, Md., is having difficulty finding enough qualified buyers of homes built under its inclusionary zoning law, reported *The Baltimore Sun*. County rules mandate that residential builders in most zones reserve up to 15 percent of the projects as moderate-income units. As long-gestating projects along the U.S. 1 corridor take shape, the county expects to have as many as 60 new townhouses and condominium apartments this year to award to buyers who meet income eligibility requirements. In the first round, the county has 17 subsidized houses to offer but has found only nine qualified buyers. “The experience seems to belie years of public angst in Howard County over high housing prices shutting out people with incomes of less than \$100,000,” the article said. According to county officials, the problem is temporary and will be addressed with further tweaks to the program and more marketing.

## Public-Private Partnerships Enable Workforce Housing

The number of applicants for Florida’s Community Workforce Housing Innovation Pilot Program increased from 33 the first year to 49 in this, the second year, reported the *Naples Daily News*. The program was created as a way of keeping teachers, firefighters, and other critical workers from leaving the state for places with lower home prices. Winning applicants must be public-private partnerships that use grant funds for no more than 50 percent of a project’s total cost. Last year, 11 for-sale and rental projects offering roughly 1,000 units received funding. Among the applicants vying for a total of \$62.4 million this year is a public/private partnership of five of the largest employers in Collier County, including the school district and two healthcare institutions. Some people are wondering whether the decline in home prices caused by the real estate slump has ended the affordable housing crisis. But applicants say the current availability of lower-cost homes will be short-lived, with the old affordability problems resurfacing in the near years to come.

In a series of articles in *Housing Giants* magazine, top executives from real estate investment and development firm CityView promote broader use of public-private partnerships to build more workforce housing. In the first article, CityView Chairman Henry Cisneros, former Secretary of the U.S. Department of Housing and Urban Development, urges builders to prepare now for the country’s housing needs once today’s turbulent market “returns to normal over the next several years.” Housing affordable to households making between 80 and 150 percent of an area’s median income is a critical community resource, leading to family stability, shorter commutes, and sustaining the middle class, he says. Municipalities must make it easier for private builders to partner with them on workforce housing development by making surplus public sites available for development, expediting permitting, revising fees, and using trust funds and other innovative financing tools to fund such development. “Our Communities, Our Homes,” a new bipartisan guidebook, offers many examples of successful public-private partnerships, the article said.

In the second article, CityView COO Sean Burton says local housing policies are gravitating away from both the purely mandatory approaches, which “tend to create adversarial relationships,” and the purely incentive-based approaches, which have limited effectiveness. The result is a movement toward “carrot-and-stick” approaches that local builders can successfully navigate if they collaborate with local stakeholders, especially nonprofits, he says. In the ideal private/nonprofit partnership, the private builder delivers “efficient price points at scale” while the nonprofit delivers “the subsidies, grants and concessions necessary to fully finance affordable housing development.” If the partners fulfill these respective roles, they will have an advantage when negotiating development agreements with urban communities, and be well-placed to take advantage of new development opportunities that arise, the article said.

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**Demand Spikes for Work Force Housing Grants**  
02/25/2008 | Naples Daily News (Florida)

**Cisneros Takes on the Affordability Issue**  
02/01/2008 | GIANTS

**How Builders can Collaborate with Governments to Advance Workforce Housing**  
02/22/2008 | GIANTS

## New Orleans Launches Recovery Project Status Web Site

A new [Web site](#) allows users to track the progress of recovery projects, reported the *Times-Picayune*. When fully operational, the site will feature a map dotted with small icons representing all the major projects and more than 100 minor projects, from new stadium lights to road improvements. Visitors will be able to click on an icon to bring up a box citing the project's name, address, work description, and status. Users will be able to zero in on the projects within a certain radius or search for specific projects by type, council district, or name. City officials and the Web site builder demonstrated the site to *Times-Picayune* staff, using the list of 26 public facilities projects recently issued by Recovery Director Ed Blakely's office. Blakely said recovery projects will move forward more quickly as an expected \$1 billion in funds flows into the city over the next 18 months.

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#### **Pace Picks Up in N.O. Recovery; Internet Map to Highlight Progress**

02/29/2008 | Times-Picayune (New Orleans)

## Market Woes Spotlight Costs of Growth

Dueling editorials in the *Richmond Times-Dispatch* faced off over a proposed law that would change the way Virginia’s local governments fund the public infrastructure that accompanies population growth. Under current state law, Virginia counties can accept cash proffers from residential developers to compensate for the cost of increased demand for public services and infrastructure. According to State Sen. John Watkins, the system is unfair because

proffers are made only when the developer is requesting a rezoning of the development site. Thus, “some new home buyers pay large proffer sums, which are escalating rapidly and are not limited, while other new home purchasers pay little or nothing,” Watkins wrote in his editorial. Watkins urged support of his proposed Senate Bill 768, saying it would create a more predictable and fair system by replacing cash proffers upon rezoning with impact fees on most new residential and commercial development. It would also make housing more affordable, he said.

In their *Times-Dispatch* editorial, local officials from Chesterfield, Va., say Watkins’ bill would severely hamper the ability of local governments to fund the infrastructure required by new development. The authors fault the Home Builders Association of Virginia for allegedly seeking to increase home sales in an ailing market by replacing proffers with much smaller impact fees. The subprime mortgage crisis, tightening credit, and other factors helped cause the housing slump, not cash proffers, the article said. The current system is fair because existing taxpayers “have already paid a fair share for existing facilities.” Also, cash proffers don’t increase home prices, as evident in the higher home prices in Henrico – which doesn’t use them – than Chesterfield, which does. Watkins’ bill codifies an inappropriate “one size fits all” approach and should, at the very least, be tabled for study, the editorial said.

Anne Arundel County, MD, has tabled a proposal to increase its impact fees, reports *The Maryland Gazette*. A consultant study recommended that the county increase its impact fees from \$4,069 to \$26,407 for a four-bedroom home. Supporters, who include County Executive John R. Leopold, say the current fee is very low compared with other Maryland communities, and burdens citizens with too much of the cost of new growth. But builders, real estate agents, and affordable housing advocates say the fee hike would further price many residents out of homeownership by adding an additional \$20,000 to the cost of a new home. The county council voted to form a work group to study the issue. Meanwhile, the county’s auditor and the study’s author are reviewing the data to determine whether the estimated costs of school and road projects were flawed.

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##### **Times Change - It's Time For Proffer Reform**

02/23/2008 | Richmond Times Dispatch (Virginia)

##### **Chesterfield Opposes This Impact Fee Bill**

02/23/2008 | Richmond Times Dispatch (Virginia)

##### **Debate Over Impact Fees Drags On**

02/23/2008 | The Maryland Gazette

## Law Aids Trailer Park Residents

For the first time, a community in Arizona has extended the advance notice for evicting trailer park residents from 30 to 90 days, reported the *East Valley Tribune*. State law requires trailer park owners redeveloping their properties to give residents 180

days’ notice to leave; however, “a little-known provision” lets owners seeking rezoning cut the notice to 30 days by doubling the per unit fee they must pay to the state’s trailer park relocation

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##### **90-day Eviction Notice for Trailer Park Residents Now Required**

02/25/2008 | East Valley Tribune (Mesa, Arizona)

fund, the article said. While Tempe officials expect more park conversions, the aim was to soften the blow for residents, who reportedly don't get enough from the relocation fund to cover the entire cost of moving – if their homes can even be moved. The Tempe City Council approved an ordinance requiring a minimum 90-day eviction notice, which, like the state law, applies only when park owners need rezonings, the article said.

## Gentrification Fears Plague Redevelopment Plans

Communities across the country are embroiled in the latest iterations of a longstanding debate that resurfaces with regularity: how to grow and who benefits. In Los Angeles, one of the epicenters of the “urbanization” debate is a four-mile stretch of the southeast San Fernando Valley, reported the *Los Angeles Times*. Proposed developments would bring about 5,500 new housing units and millions of square feet of commercial and office space to the area. Los Angeles city officials are seeking denser development as a means of encouraging affordable housing construction. But some neighborhood residents, backed by some planning experts, say the city is not taking a sufficiently comprehensive look at long-term impacts on quality of life. City planners say they will compare the proposed projects with community plans that project how much growth an area can handle. Developers, for their part, say they have responded to neighborhood concerns and scaled back in some cases.

The San Francisco Planning Department's soon-to-debut development plan for the eastern quarter of the city is stirring long-simmering debates around “profits versus affordability,” reported *The San Francisco Chronicle*. The rezoning will determine the mix of land uses in “an area that has long been ground zero for fights over gentrification,” the article said. Three options in play differ in the amount of industrial land that could be used for residential and commercial development. The rezoning plan chosen will also determine how much developers would pay for infrastructure and how much affordable housing they would have to include. The Board of Supervisors have said that 64 percent of new housing should be affordable to low and moderate-income people. Some planning commissioners say that figure is wildly unrealistic and would shut down all residential construction.

Boise, Idaho, city and regional planners are unveiling a set of big plans for the redevelopment of Boise's West End neighborhood, reported *Boise Weekly*. The predominantly residential community “has long been a stronghold of affordable housing,” run-down by some standards but home to loyal residents. City planners want to prevent gentrification from pushing out lower-income folks with a comprehensive plan that assures continued affordability. The city's draft plans calls for smaller sub-neighborhoods, each consisting of a mix of residences around commercial hubs, and each having its own “personality.” By increasing density along what is slated to become a main thoroughfare, the planners hope to promote apartment and townhome development there, the article said.

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#### **Growth Plans Upset Neighbors; Seven Projects Slated for the Southeast Valley Have Residents Worried**

02/28/2008 | Los Angeles Times

#### **Profits, Affordability Entangle Planning Landscape**

02/27/2008 | The San Francisco Chronicle (California)

#### **West End Story**

02/27/2008 | Boise Weekly (Idaho)

## Hip-Hop's 'Birthplace' Threatened

In New York City's Bronx borough, near Yankee stadium, the mostly low-income tenants of one apartment building are fighting the sale of their building to "a millionaire investor," reported the *Los Angeles Times*. The Sedgwick Avenue building is covered by Mitchell-Lama, a state program offering moderate-income housing. Tenants, who fear that taking the building out of the program would mean rent increases beyond their means, want to buy it and turn it into a co-op. On their side is the building's history – which has been declared the "birthplace of hip-hop" by the state, making it eligible for state and federal historic status. The tenants, who have raised roughly \$11 million of the \$14 million needed to purchase the building, are hoping the city will overrule the pending sale of the building to the New York investor. [Ed. Note: Amy Chan of the state Tenants and Neighbors tenants' rights group told *Week In Review* that the city has since rejected the sale offer. However, the building's fate is still uncertain, with no guarantee that it will remain in the Mitchell-Lama program or be sold to the tenants.]

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#### **THE NATION: Music Might Save Bronx Homes**

02/24/2008 | Los Angeles Times

## State Homeless Efforts Stress 'Housing First'

Utah is expanding housing for the homeless as part of its 10-year plan to end homelessness, reported *The Salt Lake Tribune*. Salt Lake County's housing authority just opened Grace Mary Manor, a new \$9 million supportive housing complex for chronically homeless people. Sunrise Metro, a similar \$11 million complex, opened near downtown Salt Lake City nearly a year ago. Another 201-unit building for homeless people is expected to open in early 2009. The developments align with the nationally popular "housing first" philosophy, which stresses the cost-savings and humanity of getting homeless people housed and then helping them deal with addictions or other issues. Having a home and access to services has started to change lives for residents at Sunrise, which is still home to 86 of the 100 original residents. Nineteen people referred to Sunrise from Volunteers of America used \$1,263 in services in the six months after the move. Comparatively, in the six months before the move, VOA adult detoxification center services for these individuals cost \$18,300. Additionally, Sunrise Metro accommodated 45 chronically homeless people from a nearby shelter, freeing up space to serve 111 additional homeless people with less frequent needs, the *Tribune* said.

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#### **Utah's Sunrise Residents See Bright New Day**

02/27/2008 | The Salt Lake Tribune

#### **New Housing for Homeless Opens**

02/27/2008 | The Salt Lake Tribune

#### **Large-Scale Effort to Keep Many off Street Faces Hurdles**

02/24/2008 | The Boston Globe

Massachusetts Gov. Deval Patrick's proposed \$10 million effort to combat homelessness would radically change the state's approach by getting street homeless people out of the jail-shelter-emergency room cycle and into permanent housing, reported *The Boston Globe*. Under the plan, the initial \$10 million infusion would pay for the services needed to begin a five-year effort to reduce shelter beds by 20 percent and provide 1,000 apartments for individuals and 800 homes for families. Currently operating pilot "housing first" programs have report mixed results. One program found apartments for more than 230 people, 86 percent of whom remained in their homes for more than a year. But 22 people left their housing because they couldn't adapt or were evicted

for such infractions as allowing drug use. With such programs, caseworker “burnout” is an issue, because it’s unquestionably “more work to keep someone housed,” said a physician advocate for the Massachusetts Housing and Shelter Alliance.

### **Cities To Expand Housing With Services for Homeless**

As early as this spring, Denver officials could ask the city council to approve a plan to spend \$20 million on 200 new housing units for homeless people, reported *The Denver Post*. Under the plan, homeless people placed in housing will be encouraged to accept supportive services, such as addiction counseling, job training, and medication for mental illnesses. Sensitive to lawmakers' concerns about concentrating homeless housing in high-poverty neighborhoods, the proposal being drafted would spread the units around the city and ensure on-site management. More than 300 communities have similar programs, fueled by the theory that it costs less to provide emergency services to people who are in apartments rather than on the streets. According to Denver officials, the 76 percent decrease in emergency detoxification admissions among 82 homeless people studied before and after they were housed translates into savings of more than \$500,000. But some council members still have concerns that the projected cost savings won't materialize.

A Denver success story is cited by the Health Foundation of Central Massachusetts as it helps launch a housing first program and loan fund in Worcester, according to an editorial in the *Telegram & Gazette*. A study of a Denver program offering housing and comprehensive mental and physical health care to 100 chronically homeless people found that it cost 73 percent less to provide emergency services two years into the program compared with the two years before the program. The savings averaged \$31,545 per participant. The Health Foundation of Central Massachusetts is awarding \$587,655 to a partnership of agencies that will provide case management and support services to up to 30 residents who are at risk of, or are already, chronically homeless. The foundation has also pledged \$500,000 to a new fund providing low-rate loans for the acquisition and renovation of properties into homeless housing. Over the next few years, fund backers hope to expand to \$3 million and serve about 120 chronically homeless residents, the article said.

While all major U.S. cities are seeking ways to reduce homelessness, New York City is tackling the challenge most aggressively, according to the *Philadelphia Inquirer*. The man hired nearly two years ago to help Mayor Michael Bloomberg live up to his pledge to cut street homelessness by two-thirds, initially met a firestorm of resistance when he "upended" the homeless services industry by canceling all contracts. Rob Hess' aim was to start afresh under a push to de-emphasize emergency shelter in favor of permanent supportive housing. Under the new contract system, technology-equipped outreach workers, with access to information on supportive-housing vacancies, are paid for getting the street homeless into long-term housing. To back up these efforts, the city is spending roughly \$678 million, of which \$129 million goes to rental subsidies. One advocate said the "short-term, relatively modest subsidies" can't redress the lack of affordable housing in the high-cost city.

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##### **Denver Building on New Ideas for Helping Homeless**

02/24/2008 | The Denver Post

##### **Homelessness Strategy Targets Root Causes**

02/25/2008 | Telegram & Gazette (Massachusetts)

##### **New York Takes an Aggressive Approach**

02/26/2008 | Philadelphia Inquirer (Pennsylvania)

## Programs Meet San Francisco's Homeless Where They Are

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A probation officer in San Francisco who hops on his bike to seek meetings with his homeless clients is believed to be the only one of his kind in the country, reported *The San Francisco Chronicle*. Darrin Dill recently won the California Probation Officer of the Year Award for his ingenuity in tackling the common bind facing homeless people. Battling drug addictions

or mental illness, they often miss probation appointments and, thus, cycle in and out of jail. Roughly 10 percent of the probationers served by San Francisco's adult probation department are homeless or on the edge of homelessness, the article said. As Dill rides around looking for probationers in the Tenderloin and South of Market neighborhoods, he carries toothpaste, lip balm, and a list of social service agencies.

#### [House-Calls on Bike for Homeless Probationers](#)

02/26/2008 | [The San Francisco Chronicle](#) (California)

#### [Google, Shelters To Give Phone Numbers, Voice Mail to Homeless](#)

02/28/2008 | [The San Francisco Chronicle](#) (California)

California-based Internet company Google wants to provide free phone numbers and voice mail accounts to every homeless person in San Francisco, reported *The San Francisco Chronicle*. Under the plan, homeless people would benefit from Google's purchase of a San Francisco startup that created a service allowing customers to route their cellular, home, and business lines onto one phone number. By partnering with all the city's homeless shelters, Google plans to expand that existing infrastructure to homeless people, who would receive a personal identification code enabling them to record their greeting and check their voice mail messages from any telephone at no cost. According to a Google executive, more than 4,000 voice mail accounts have already been distributed, with a goal of getting all shelters involved by the end of the year.

### Foundation Takes a Risk to Grow a Nonprofit

In an unusual twist on philanthropic giving, the Michigan-based Kresge Foundation made a \$1 million challenge grant to a nonprofit homeless service provider in Portland, Maine, according to an editorial in the *Portland Press Herald*. Typically, foundation

grants do not fund grantees' operating expenses. But the Kresge grant to Preble Street, which is contingent on the organization raising an additional \$5 million over five years, will pay for new staff, higher salaries, and fundraising. According to Elaine Rosen, the chair of Kresge's board of directors, the gift represents a new mindset that seeks to invest in nonprofits the same type of operating capital available to the for-profit sector. Preble Street, which has an annual budget of about \$9 million, will use some of the Kresge grant for salary increases to reduce turnover in difficult front-line social worker positions. Kresge should be commended for taking a risk to fund intangible but critical outcomes, the editorial said.

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#### [National Foundation Pledges \\$1 Million to Help a Portland Organization Expand](#)

02/23/2008 | [Portland Press Herald](#) (Maine)

### Audio Conference: Local Housing Subsidy Programs, March 13

On Thursday, March 13, the Leadership to End Homelessness Audio Conference Series will feature an audio workshop on how to design a local housing subsidy program as part of a broader effort to end family homelessness. Presenter Beth Stokes, executive director of the San Francisco-based Hamilton Family Center, will discuss her organization's First Avenues program, which offers shallow subsidies. Stokes will cover resources and funding, the design elements of the program, and outcome measures. For details on how to listen to the call for free through the

Webcast and submit questions by email, [click here](#). To register to participate by phone, for approximately \$30, [click here](#).

### Expert Chat: Complying with the Violence Against Women Act, March 20

On Thursday, March 20 at 2 p.m. ET, KnowledgePlex and The National Law Center on Homelessness & Poverty will present an Expert Chat about meeting the requirements of the Violence Against Women Act, to which important new housing provisions were added in 2005. In addition to new funding for housing, new confidentiality provisions, and new grant programs, VAWA's 2005 reauthorization created protections for victims of domestic violence, dating violence and stalking in Public and Section 8 housing and required Housing Authorities to include VAWA in their planning. Katherine Zeisel, staff attorney with NLCHP's Domestic Violence Program, will moderate the discussion by panelists Kate Walz, senior staff attorney with the Sargent Shriver National Center on Poverty in Chicago; and Gail Monahan, executive director of the Alachua County, Fla., Housing Authority. Housing authorities, Section 8 landlords and owners, developers, and advocates will learn about the provisions of the law and strategies for implementing it. For more information on the chat or how to participate, [click here](#).

### NAHRO Legislative Conference, March 31-April 2

The National Association of Housing and Redevelopment Officials will hold its annual legislative conference March 31-April 2 in Washington, D.C. The opening general session will feature a keynote address on leadership in America by David Gergen, former advisor to four U.S. presidents and current editor-at-large at *U.S. News & World Report*. Other plenary session speakers will include Charlie Cook, publisher of the *Cook Political Report*; Greta Wodele, host of C-SPAN's *Washington Journal*; and Donald R. Wolfensberger, director of the Congress Project at the Woodrow Wilson International Center for Scholars. In addition to congressional visits, NAHRO delegates will have a chance to hear federal lawmakers outline upcoming housing legislation. The deadline for advance registration is March 17. For more information on the conference or to register, [click here](#).

### April 1st Deadline for 2008 Innovations in Manufactured Homes Program

CFED has issued its 2008 request for proposals for the Innovations in Manufactured Homes (I'M HOME) program. The RFP solicits proposals from organizations that are seeking to address barriers to asset building in the manufactured housing sector. Successful applicants will be awarded predevelopment grants of up to \$50,000; policy grants of up to \$75,000; or development grants of up to \$150,000. Grants awarded will explicitly target two major issue areas: new and replacement development, and public policy. Grants for park preservation and mortgage finance will be awarded through a separate process. Concept papers, which are the first step in the application process, must be submitted by April 18. Additional information, the RFP itself, and the online form for submitting a concept paper can all be found on CFED's [Web site](#).

### ULI Green Development Conference, April 7-8

The Urban Land Institute will hold a conference on green development and investment April 7-8 in Charlotte, N.C. The opening keynote address will be delivered by James E. Rogers, chairman, president, and CEO of Duke Energy, one of the nation's largest energy companies and the third-largest emitter of carbon dioxide. As one of the country's most tenacious advocates for federal regulation of greenhouse gas emissions, Rogers will share his solutions-based vision for "decarbonizing" the energy supply and becoming the most energy-efficient economy in the world. Other conference sessions will cover such topics as choosing among green certification programs, new sources of financing for sustainable development, and quantifying the value of green development. The early registration deadline is March 14. For more information on the conference or to register, visit ULI's [Web site](#).

### Gauging Markets Conference, April 9-10

The National Housing and Rehabilitation Association and the National Council of Affordable Housing Market Analysts will present their first-ever "If You Build It ... Will They Come?" conference April 9-10 in New Orleans. The meeting will explore the techniques and methodologies used by affordable housing developers, debt and equity underwriters, public officials, and market analysts to determine where long term viable markets exist for their products. Sessions will cover such topics as setting rents for tax credit real estate, determining demand in markets with dispersed or declining populations, and working with the Federal Housing Administration. The early registration deadline is March 10. For more information on the conference or to register, [click here](#).

### Rose Architecture Fellowship Applications Due April 25

Enterprise Community Partners is accepting applications for the 2008 Frederick P. Rose Architectural Fellowship program. Rose Fellows and their host organizations commit to a three-year partnership in which the Fellow contributes his or her time and energy to work as part of the host organization's staff while the host supports the development of the Fellow's career by providing meaningful experiences in design, development, financing, construction management and resident services. This

year, applicants can apply to partner with one of the four following organizations: Community Housing Partnership, in San Francisco; Gulf Coast Community Design Studio, in East Biloxi, Miss.; Project for Pride in Living, in Minneapolis, Minn.; and SouthWest Minnesota Housing Partnership, in Slayton, Minn. The applications are due April 25 and the fellowships begin Sept. 2. For more information on the opportunity or to access an application, [click here](#).

## Consumer Credit Symposium Papers Online

Last November, the Joint Center for Housing Studies of Harvard University hosted a national symposium on consumer credit. As part of the center's working paper series, many papers from the symposium are available [online](#). The papers include [Consumer and Mortgage Credit at a Crossroads: Preserving Expanded Access while Informing Choices and Protecting Consumers](#); [Imperfect Information and the Housing Finance Crisis](#); [The Impact of Credit Price and Term Regulations on Credit Supply](#); and [Should Consumer Disclosures Be Updated?](#) Available online soon are papers on such topics as helping consumers make better mortgage choices, mitigating risks to borrowers in changing markets, and interventions to prevent foreclosures.

## NPR Series Looks at Land-Use Decisions

A new series on land-use choices confronting communities facing change is airing on National Public Radio's afternoon news program *All Things Considered*. The series, called Shifting Ground, was produced by award-winning science reporter and editor David Baron and supported by the Orton Family Foundation and the Lincoln Institute of Land Policy. Through storytelling the series will address the role of such things as zoning, setbacks and comprehensive plans in the choices communities make about their futures. According to the Lincoln Institute, after the first installment airing Thursday, February 28, the reports will air as an occasional series in the weeks and months ahead. They will be archived and available on this [Web site](#).

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**NOTE: The articles in this issue will remain active for approximately 90 days.**

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**GOVERNOR'S  
ACTION TEAM  
MEETING ON  
ENERGY AND  
CLIMATE CHANGE**

## GOVERNOR'S ACTION TEAM MEETING ON ENERGY AND CLIMATE CHANGE ANNOUNCES NEXT MEETING DATE

Florida Department of Environmental Protection (DEP) Secretary Michael W. Sole will join the members of the Governor's Energy and Climate Change Action Team to continue discussion of policy issues regarding the development of a comprehensive Energy and Climate Change Action Plan that will address statewide greenhouse gas reductions specified in Executive Order 07-127.

### **The Action Team meeting will take place:**

March 17, 2008

9:00 a.m. to 4:00 p.m. or until completion of business

Room 212, Knott Building

Tallahassee, Florida

Supporting documents and presentations from previous meetings of the Action Team are posted online at [www.dep.state.fl.us/climatechange/team](http://www.dep.state.fl.us/climatechange/team) and at <http://www.flclimatechange.us/>.

Since submitting the Phase One report on November 1, 2007, the Action Team has begun Phase Two of the process. Phase Two is being conducted through a facilitated stakeholder process. The Action Team will consider long-term public policies focused on reducing greenhouse gases while stimulating economic development of alternative energies in Florida. This includes exploring carbon capture and storage technologies, university-based research and technology development, pursuing energy independence through domestic alternative energy sources, protecting Florida's environment and natural resources, and planning for growth management and transportation. The Action Team will also explore adaptation strategies to prepare Florida for adverse impacts as a result of climate change.

A copy of the agenda may be obtained by contacting: Florida Department of Environmental Protection, Attn: Allena Nelson ([allena.nelson@dep.state.fl.us](mailto:allena.nelson@dep.state.fl.us)), Office of Strategic Planning, 3900 Commonwealth Blvd., M.S. 18, Tallahassee, Florida 32399-3000 or by calling (850)245-2002.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Florida Department of Environmental Protection, Attn: Allena Nelson ([allena.nelson@dep.state.fl.us](mailto:allena.nelson@dep.state.fl.us)), Office of Strategic Planning, 3900 Commonwealth Blvd., M.S. 18, Tallahassee, Florida 32399-3000 or by calling (850)245-2002. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Florida Department of Environmental Protection, Attn: Allena Nelson ([allena.nelson@dep.state.fl.us](mailto:allena.nelson@dep.state.fl.us)), Office of Strategic Planning, 3900 Commonwealth Blvd., M.S. 18, Tallahassee, Florida 32399-3000 or by calling (850)245-2002.

*The Department of Environmental Protection values your feedback as a customer. DEP Secretary Michael W. Sole is committed to continuously assessing and improving the level and quality of services provided to you. Please take a few minutes to comment on the quality of service you received. Simply click on [this link to the DEP Customer Survey](#). Thank you in advance for completing the survey.*

**ASHTO JOURNAL**  
**NO. 8**

THE

# AASHTO Journal

WEEKLY TRANSPORTATION REPORT  
SUNNY MAYS SCHUST, EDITOR

Vol. 108, No. 9

February 29, 2008

## EXECUTIVE DIGEST

### Congress

With House and Senate aviation leaders still far apart on how to fund the nation's future aviation programs, President Bush on Thursday signed another temporary extension of the programs of the Federal Aviation Administration, and the taxes which support them. Page 1.

A bipartisan group of governors called on President Bush Monday to urge support for a second economic stimulus package to fund repairs to the nation's transportation system and infrastructure. Page 1.

Senate Budget Committee Chairman Kent Conrad (D-ND) this week outlined plans for the Fiscal Year 2009 budget resolution that could open the door for a second economic stimulus package providing as much as \$40 billion to \$60 billion for state infrastructure spending. Page 2.

### AASHTO Washington Briefing

Addressing delegates to AASHTO's Washington Briefing Tuesday, AASHTO President Pete Rahn stressed the need for swift action by Congress to restore solvency to the Highway Trust Fund, warning that federal highway funding could be cut by as much as \$13.5 billion below SAFETEA-LU levels in October, if no action is taken. Page 3.

Unless Congress acts to increase Highway Trust Fund revenue, states could be facing a significant reduction in federal-aid highway funding in Fiscal Year 2009 according to finance experts from the U.S. Department of Transportation and Congressional staff. Page 3.

U.S. Transportation Secretary Mary Peters told a panel of governors Sunday they should tap into private sector resources to help relieve congestion and transform the nation's transportation system to remain competitive in the global economy. Page 4.

"Think of our parents and grandparents who invested in the U.S. transportation system in the 1950s. Are we going to give our children a first rate transportation system 50 years from now?" That question was posed by Jack Schenendorf, Vice Chairman of the National Surface

Transportation Policy and Revenue Study Commission this week as he outlined the Commissions recommendations to reform the nation's transportation system. Page 5.

Addressing participants at AASHTO's Washington Briefing Tuesday, Sen. Ron Wyden (D-OR) a member of the Senate Finance Committee said his recent push to get infrastructure spending included in the economic stimulus package was an "eye opening" experience, demonstrating the need for allies at all levels of government. Page 6.

Transportation issues are on the radar screen of governors and state legislators, as they face dwindling revenues and a reluctance to increase motor fuel taxes, speakers told participants at AASHTO's Washington Briefing. Page 7.

Transportation leaders in Congress are committed to enacting highway and transit authorization by the Sept. 30, 2009 deadline, and will conduct an aggressive schedule of hearings in the coming months to achieve that goal. Page 8.

Communicating the benefits of transportation to businesses, the public and to legislators nationwide will be vital to obtaining the federal funding required to meet the nation's transportation needs, transportation advocates said this week. Page 9.

The impacts of transportation on climate change, as well as the potential impacts of rising global temperatures to transportation infrastructure were analyzed during the AASHTO Washington Briefing session "Transportation Issues for the 110<sup>th</sup> Congress—Energy and Climate Change." Page 11.

Noted public opinion researcher Peter D. Hart of Peter D. Hart Research Associates addressed AASHTO Washington Briefing delegates Wednesday, providing an inside glimpse into what is on American's minds heading into the elections later this year. Page 12.

## **Information**

Minnesota's House of Representatives and Senate this week overrode Gov. Tim Pawlenty's veto of a \$6.6 billion transportation funding bill that is being paid for by the first increase in the state's gasoline tax in 20 years. The Senate then acted on Thursday to oust Commissioner of Transportation Carol Molnau, who will continue to serve as the state's Lieutenant Governor. Page 13.

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# AASHIO

# Journal

WEEKLY TRANSPORTATION REPORT  
SUNNY MAYS SCHUST, EDITOR

Vol. 108, No. 9

February 29, 2008

## **Bush Signs Aviation Extension Through June 30**

With House and Senate aviation leaders still far apart on how to fund the nation's future aviation programs, President Bush on Thursday signed another temporary extension of the programs of the Federal Aviation Administration, and the taxes which support them.

Signed into law were H.R. 5270, the "Airport and Airway Extension Act of 2008," which extends authorities to:

- collect taxes that fund the Airport and Airway Trust Fund through June 30, 2008;
- to make expenditures from the Airport and Airway Trust Fund through June 30, 2008;
- to make grants to airports under the Airport Improvement Program through June 30, 2008; and
- to provide Essential Air Service subsidies to three small communities through September 30, 2008.

The legislation will allow the Federal Aviation Administration to resume the Airport Improvement Program (AIP) grants program, which had been suspended. The act provides some \$2.756 billion in contract authority for the AIP grant program, which is three fourths of an assumed \$3.675 billion total for the year.

## **Governors Press President, Congress for Infrastructure Funding in Second Stimulus**

A bipartisan group of governors called on President Bush Monday to urge support for a second economic stimulus package to fund repairs to the nation's transportation system and infrastructure.

Washington Gov. Christine Gregoire (D-WA) said that the governors are urging both the White House and Congress to support in the range of \$12 billion for infrastructure improvements, including transportation. Democratic Gov. Ed Rendell of Pennsylvania said the group will urge Congress to approve a new economic stimulus package that could include \$25 billion to \$30 billion for infrastructure projects.

The Bush Administration remains lukewarm to such a package, but did not necessarily reject it. Bush signed a \$168 billion stimulus package this month that included tax rebates of \$300 to \$1,200 per household. This week the President said that he preferred to see the impact of the first stimulus package before considering a second.

Meanwhile, 13 governors have signed on to the new coalition founded by Govs. Rendell, Arnold Schwarzenegger (R-CA), and New York Mayor Michael Bloomberg called "Building America's Future." At a news conference at the annual National Governors Association meeting in Washington, Schwarzenegger said states on tight budgets have already approved billions in state bonds for new projects, but need more federal help. "It's time for the federal government to step up and do its part," he said.

The push comes at a crucial time, with many states taking a budget hit as a sagging economy slows tax receipts. California is facing a \$16 billion budget shortfall that will take spending cuts and tax increases to close, the *San Francisco Chronicle* reports.

The governors have not come up with a clear plan to pay for their projects, but have offered ideas: reducing federal earmarks for other projects, creating incentives for private firms to invest in the repairs and starting a federal capital fund for infrastructure.

Schwarzenegger said the coalition is starting to lobby presidential candidates in both parties to commit to more federal infrastructure funding.

"No matter who is going to be the next president," he said, "this group is going to keep the pressure on."

### **Infrastructure Spending Eyed in Senate Budget Resolution**

Senate Budget Committee Chairman Kent Conrad (D-ND) this week outlined plans for the Fiscal Year 2009 budget resolution that could open the door for a second economic stimulus package providing as much as \$40 billion to \$60 billion for state infrastructure spending.

The budget resolution in itself is nonbinding and merely sets fiscal ceilings which cannot be exceeded by appropriators. However, the resolution could contain reconciliation instructions that would pave the way for legislation which could move through Congress without being subject to filibuster. Conrad told the *National Journal* there is a high probability that lawmakers will use the reconciliation process to pass both tax and spending provisions this year.

The *National Journal's Congress Daily* reported that the infrastructure portion of the spending reconciliation bill would add money to the Highway Trust Fund and provide funding for construction projects that could start quickly.

Conrad said the next stimulus package is designed to sweep in "things that were left out of the previous stimulus package." That includes infrastructure funding, an extension of unemployment benefits, a temporary increase of food stamps and low-income heating assistance. Medicaid would not be included in the stimulus.

Earlier this month, President Bush signed a \$168 billion stimulus package that included tax rebates of \$300 to \$1,200 per household. But the White House opposed efforts to add spending for infrastructure, saying the money could not be spent quickly enough to jump-start the economy.

An AASHTO survey documented \$18 billion in “ready-to-go” highway projects that could be underway within 90 days if federal funding were provided.

### **Rahn Urges Action on Highway Trust Fund Solvency**

Addressing delegates to AASHTO’s Washington Briefing Tuesday, AASHTO President Pete Rahn stressed the need for swift action by Congress to restore solvency to the Highway Trust Fund, warning that federal highway funding could be cut as much as \$13.5 billion below SAFETEA-LU levels in October, if no action is taken.

Rahn said, “That translates into more than half a million jobs lost at a time when the economy is already slowing. It would also mean that we would head into reauthorization in 2010 with virtually zero money in the Highway Trust Fund for highway programs and only \$1.2 billion for transit programs.”

Rahn, Director of the Missouri Department of Transportation, noted that the Senate Finance Committee has reported a bill to restore solvency by transferring some \$5 billion into the Highway Trust Fund from the general fund. The proposal was attached by the Finance Committee to the Senate version of the Federal Aviation Administration multi-year reauthorization bill. “But whatever vehicle is chosen,” he said, “action is needed quickly to give the measures it proposes time to produce the revenue needed to avoid the crisis.”

Noting that the Congress had enacted an extension of the federal aviation program until June, 2008, Rahn emphasized the need for a multi-year reauthorization to meet the nation’s aviation modernization needs.

Finally, Rahn said it was time to turn attention to the upcoming authorization of the federal highway and transit programs, which expire Sept. 30, 2009. He said, “The National Surface Transportation Policy and Revenue Commission worked for two years to develop some very bold recommendations to reform the federal programs and restore public confidence. This report can transform the future of America, and it should not be ignored. A second finance commission is also underway and we expect a report from them sometime next year. The time is now to begin debate on the issues that it raises, and the solutions it offers.”

### **Highway Trust Fund Crisis at Hand**

Unless Congress acts to increase Highway Trust Fund revenue, states could be facing a significant reduction in federal-aid highway funding in Fiscal Year 2009 according to finance experts from the U.S. Department of Transportation and Congressional staff.

Appearing on a Washington Briefing panel addressing Spending, Revenue and Funding: Outlook and Options for FY 2009 and Beyond on Tuesday, three speakers agreed that the Highway Account of the Highway Trust Fund might be in the red by as much as \$3.2

billion by the beginning of FY 2009, which translates to a \$13.5 billion program reduction for highways.

Phyllis Scheinberg, Assistant Secretary for Budget and Programs at the U.S. Department of Transportation, said that two estimates of the state of the Highway Trust Fund differ in regard to how quickly cash may be spent. Regardless of which estimate is used, she said, "by 2010 there is going to be a problem for the program," since projections show that the shortfalls will get progressively larger each year.

Scheinberg explained the President's transportation budget request, noting that the highway program is reduced by some \$2 billion from the SAFETEA-LU authorized levels. She said that is a result in part of a projected \$1 billion negative Revenue Aligned Budget Authority, a mechanism which either increases or reduces highway program funding according to the amount of revenue collected in the Highway Trust Fund. The Bush Administration also proposed to reduce the highway program by another \$800 million, she said, based on the fact that higher than agreed to funding levels in earlier years meant that the total authorization level for the program had been met.

Peter Rogoff, Professional Staff Member of the Senate Appropriations Subcommittee for Transportation, Housing and Urban Development said, "The outlook is truly grim. It's hard to see rapid action on reauthorization when revenue issues have to be wrestled with, just to maintain current levels of funding." He noted that in the past, Congress was able to solve formula fights "because we had a growing program. We may not have the revenue for a growing program in the next reauthorization."

Rogoff characterized the status of the Highway Trust Fund as "dancing on the edge of a razor blade as to whether we will go into the red." He said that participants should watch the aviation reauthorization bill carefully, since the Senate Finance Committee has included provisions to address the shortfall. He added, however, that "We're at a crossroads as to how we are going to fund this program. The old ways are not going to work. The gas tax is better than a whole lot of others, but it may not be operating as well as it used to be. The important thing is in 2010 debates are going to have to take place on how we fund transportation in the future."

David Napoliello, Professional Staff Member for the House Committee on Appropriations, expressed concern about the prospects for completing a transportation appropriations bill, particularly in light of the attention that will be paid to the housing component of the bill in light of the housing and mortgage crisis. He noted that the Congress is likely to have a short time frame to complete legislation, and that a Presidential veto threat could occur if the Congress departs from the Administration's requested budget levels.

### **Peters, Surface Transportation Commissioners Address Governors**

U.S. Transportation Secretary Mary Peters told a panel of governors Sunday they should tap into private sector resources to help relieve congestion and transform the nation's transportation system to remain competitive in the global economy.

Peters delivered her remarks to the National Governors Association's (NGA) Economic Development Committee on Sunday. The committee is chaired by Michigan Gov. Jennifer Granholm (D) and Republican Gov. M. Michael Rounds of South Dakota serves as vice chair.

Peters said states should be freed up of federal interference and become the testing grounds for surface transportation innovations. "There is a better way," she told the governors. "A way that allows you and your states to take charge of your own destiny and provide better service to your constituents...a way that avoids the zero sum of 'donor-donee.'"

She said there are more than \$400 billion of private sector funding available for transportation infrastructure. States can tap into that pool of money by moving forward with public-private partnerships, tolling and congestion pricing. Peters lauded efforts by Republican Gov. Arnold Schwarzenegger of California and Democratic Gov. Ed Rendell of Pennsylvania to generate capital for transportation infrastructure.

Together with New York City Mayor Michael Bloomberg, they launched the Building America's Future initiative aimed at increasing public and political awareness of the need to invest in the nation's infrastructure.

Peters asked the governors to support refocusing federal transportation investments on improving quality, safety and performance on the interstate system to reduce congestion in metropolitan areas. She also asked leaders to support electronic tolling and urged Congress to eliminate earmarks, streamline processes and insist on performance measurements.

Peters said her office is working with the NGA Center for Best Practices to hold sessions for governors and staff on transportation policy and financing this summer.

### **National Commission Recommendations Outlined for Governors, Transportation Leaders**

"Think of our parents and grandparents who invested in the U.S. transportation system in the 1950s. Are we going to give our children a first rate transportation system 50 years from now?" That question was posed by Jack Schenendorf, Vice Chairman of the National Surface Transportation Policy and Revenue Study Commission this week as he outlined the Commission's recommendations to reform the nation's transportation system.

After 22 months of deliberation, the Commission in January issued a slate of far-reaching proposals in its report *Transportation for Tomorrow*. Schenendorf noted that the Commission had been created to develop a "blueprint" for the next authorization of federal highway and transit programs after Congress was forced to resort to 11 extensions before passing the last reauthorization, SAFETEA-LU.

"We have a very serious transportation crisis in this country," he said, "that threatens our economic development, our global competitiveness and our quality of life." The crisis consists of three elements: underinvestment, policy and finance.

Schenendorf said that while the majority of the Commission agreed on the need for a significant increase in transportation investment, there could be no increase without a major reform of the program. "You've got to show the American People something different if you

expect to raise the revenues needed,” he said. He added, “We have to restore vision and a sense of purpose to the program. Everything hinges on that coherent vision and mission.”

He said that the Commission called for a strong federal role, and a significant federal share of transportation funding of 40 percent. State and local governments would be responsible for the other 60 percent, he noted. At the federal level, the commission recommended enactment of a 5- to 8-cent federal fuels tax increase each year for five years, followed by indexing and ultimately a shift to a vehicle miles traveled taxing system. He said that other revenue options would also be needed, such as freight fees, customs duties and ticket taxes on intercity passenger rail. He said that the report also recommends public-private partnerships, so long as the public interest is protected. “The private sector cannot solve the problem alone,” Schenendorf said.

The Commission also recommends reducing the current 100 plus federal programs to only 10, aimed at areas of true national interest.

The report also recommends creating a National Surface Transportation Commission (NASTRAC) to oversee development of a strategic plan for transportation investment and recommend appropriate revenue adjustments to Congress to implement that plan. The Commission would also oversee efforts by the U.S. Department of Transportation, states and stakeholders to develop performance measurement standards and devise development plans; assemble cost to complete funding needs estimates; and make revenue recommendations. He emphasized that the Commission was not intended to usurp the role of Congress or the U.S. DOT, but to provide an objective independent party to consider funding and other issues.

Schenendorf , along with fellow commissioners Tom Skancke, CEO of The Skancke Company; Dr. Rick Geddes, associate professor at Cornell University; and Frank McArdle, senior advisor, General Contractors Association of New York , also briefed governors Sunday at an Economic Development Committee session during the National Governors Association meeting.

## **Wyden Outlines Challenges Ahead for Transportation Funding**

Addressing participants at AASHTO’s Washington Briefing Tuesday, Sen. Ron Wyden (D-OR) a member of the Senate Finance Committee said his recent push to get infrastructure spending included in the economic stimulus package was an “eye opening” experience, demonstrating the need for allies at all levels of government.

Last month, Wyden and 22 of his Senate colleagues from both sides of the aisle signed a letter urging Congress and the Bush administration to include “significant” funding for infrastructure projects in the stimulus package. Their attempt was unsuccessful. President Bush signed a \$168 billion stimulus package last month that will send rebate checks of \$600 to \$1,200 to 130 million households this May.

Opponents of funding infrastructure through the stimulus package argued that the projects would take too long to implement. Wyden disagreed and on Tuesday, he thanked AASHTO for helping to compile a list of more than 3,000 highway projects, worth a total of \$18 billion, in 46 states that could have been started within 90 days.

Wyden described last month's debate on the stimulus bill as being "representative of the challenges we face in the days ahead. We're going to have to make sure that we have allies at every place on the political spectrum; the executive branch and legislative branches, all places; because right now there is an intense competition for resources."

Wyden also gave the roughly 200 state transportation leaders attending the event an update on the proposed "Build America Bonds" legislation, a \$50 billion bond initiative for infrastructure projects co-sponsored by Sen. John Thune (R-SD) "This is not a substitute for fixing the Highway Trust Fund, but it would provide new money on top of regular transportation funding. It is money that can be controlled and used by the states to fund the projects they consider most critical," Wyden said.

"We've got traffic jams in parts of this country where people don't get to see their families for hours on end because they are sitting in traffic. Transportation relates to our quality of life and to the economy. This is absolutely essential if we're going to have the bright economic future that we want for our country. And at the end of the day I don't think you can have big league quality of life ...with little league transportation systems," Wyden said.

### **Revenues Tightening at State Level; Governors and Legislatures Facing Transportation Issues**

Transportation issues are on the radar screen of governors and state legislators, as they face dwindling revenues and a reluctance to increase motor fuel taxes, speakers told participants at AASHTO's Washington Briefing.

Oregon State Sen. Bruce Starr, Chairman of the National Conference of State Legislatures' (NCSL) Transportation Committee, said all levels of government are trying to come to grips with transportation policy and financing. "I've never seen so much activity," he said.

Starr said states and the federal government have to rethink their relationship and recognize they are partners in the national surface transportation network. "We have a lot at stake," he said.

Starr said during the last authorization of federal surface transportation programs, he attempted to get a NCSL committee resolution passed in support of increasing the 18.4 cent federal gasoline tax. That effort didn't leave the committee. As states face serious financial woes, they will be looking for new sources of revenue to meet transportation needs. He recommended allowing states to pursue public-private partnerships to help fund transportation infrastructure investments and permit tolling to reduce congestion.

Starr projected that the nation will eventually switch to a vehicle miles traveled (VMT) tax. As a member of the state legislature's Road User Fee Task Force, he was instrumental in passing legislation to begin testing VMT approaches in Oregon. The Oregon Department of Transportation conducted a successful first round of VMT technology tests ([http://www.oregon.gov/ODOT/HWY/OIPP/rufft\\_reports.shtml](http://www.oregon.gov/ODOT/HWY/OIPP/rufft_reports.shtml)).

Starr urged other states to conduct similar tests and to ask Congress to make it mandatory to equip motor vehicles with the necessary technology to implement VMT collection technology. He also said states and the federal government must work to make road travel safer. The 43,000 highway fatalities a year is like a “747 going down every other day.”

#### Transportation a Growing Priority for Governors

Describing the fiscal crisis hitting many states, National Governors Association (NGA) Executive Director Ray Scheppach said 18 state governments are facing between a \$10 and \$12 billion shortfall in Fiscal Year 2009 and another 20 face deficits of at least \$34 billion. The reason state revenues are dwindling, Scheppach said, are climbing oil prices, the housing market slump and the credit crisis. He likened high oil prices to a \$100 million tax on the U.S. economy.

Scheppach said states that relied heavily on revenues from housing are in recession, energy-producing states are in fine fiscal shape and there are what he called “high angst” states. Historically, states feel the budget pinch a year or two after recession. Following the 1998 recession, he said 16 states felt the budget impact in 2001 and 35 in 2002-2003.

In the coming year, Scheppach listed transportation as fourth among priorities facing states and their governors. It followed green initiatives, education and health care coverage and costs.

Scheppach said that governors are taking an active interest in reauthorization. He noted that a new national transportation vision will also have to enhance economic competitiveness and protect the environment. Increased use of alternative-fueled vehicles will also reduce the viability of fuel taxes.

### **Outlook for Authorization Examined**

Transportation leaders in Congress are committed to enacting highway and transit authorization by the Sept. 30, 2009 deadline, and will conduct an aggressive schedule of hearings in the coming months to achieve that goal.

Congressional staff from both the House and Senate told participants at AASHTO’s Washington Briefing on Thursday that the upcoming election and the arrival of a new Administration and Congress next January may slow the legislation. But with the revenue in the Highway Trust Fund approaching the red, “we don’t have the luxury” of 12 extensions of the current bill, said Jim Tymon, Minority Staff Director of the House Transportation and Infrastructure Committee.

Jim Kolb, Staff Director for the House Committee, said that federal transportation programs had reached a “transformational point” and that “the next bill is going to be very different.” He said that the recommendations of the National Surface Transportation Revenue and Policy Study Commissions “gave us a starting point” highlighting the significant underinvestment that has occurred in transportation, and the need to significantly change the program to generate the needed resources. He said that the House Committee would launch a series of hearings after the Congressional Easter recess, to examine such issues as metropolitan congestion, freight needs, safety, and environmental issues.

Kolb said that the first challenge to be faced, however, is finding the resources to fully fund the final year of the SAFETEA-LU authorization, in light of the projected \$3.2 billion negative balance in the Highway Trust Fund.

Tymon said that he anticipated that the schedule would include a number of field hearings around the country, preparing the way for the introduction of a bill by next February. Tymon said that Ranking Minority Member John Mica (R-FL) is particularly interested in the development of a National Strategic Plan for Transportation, which addresses all modes. He also said that the bill is likely to address public-private partnerships, including provisions to protect the public interest.

On the Senate side, participants heard briefings from Ken Kopocis, Deputy Staff Director for Infrastructure, U.S. Senate Environment and Public Works Committee and Ruth Van Mark, Deputy Minority Staff Director for Transportation.

Van Mark called the National Commission report “courageous” in its call for reform of the federal program. She said that the committee would be “working with a clean sheet of paper” and would have the opportunity to refocus the program on things that are truly national transportation priorities.

Also of concern for Senate transportation leaders will be the need to ensure efficient goods movement, and at the same time improve air quality.

### **Reform, Communications Keys to Added Investment, Partners Advise**

Communicating the benefits of transportation to businesses, the public and to legislators nationwide will be vital to obtaining the federal funding required to meet the nation’s transportation needs, transportation advocates said this week.

A panel of transportation leaders outlined their objectives in the upcoming authorization of the federal highway and transit programs at the AASHTO Washington Briefing on Wednesday. They agreed that the transportation needs have been well documented, but not well understood by users who take the system for granted.

Former Kansas Gov. Bill Graves, who is now the President and CEO of the American Trucking Associations (ATA), said that the ATA’s number one issue will be solving congestion in the nation’s key freight corridors and eliminating bottlenecks. Looking longer term, he said, the industry seeks to see more freight capacity added, and pilot programs that can lead to the concept of truck-only lanes.

He said that even though diesel fuel is at an all time high, truckers are willing to support an increase in the federal fuel tax “to see improved investment in the nation’s highways. But we clearly want to see what we will get.” He expressed strong support for the continuation of the fuel tax until some proven alternative is identified in the future. He also urged implementation of a national 65 mile per hour speed limit for the purposes of safety, fuel economy and emissions reduction.

Pete Ruane, President and CEO of the American Road and Transportation Builders Association (ARTBA) said that his organization is advocating a minimum 10 cent user fee increase and indexing and also the creation of a Critical Commerce Corridors program to take care of nation's freight needs in the coming decades. He described ARTBA as "bullish about the future" given the increased interest of the nation's governors and the business community in transportation reauthorization. "We need to focus on where we are today and where we have to go in the future," he said. "The cooperation among the associations is at a strong level. I am confident we are going to achieve a very robust reauthorization that finally begins to meet America's needs," he concluded.

Bill Millar, President of the American Public Transit Association (APTA), stressed that "Before we get to reauthorization, we have got to take care of 2009. We have got to solve the problem of the solvency of the Highway Trust Fund." He expressed appreciation to the groups for their widespread rejection of the Bush Administration's budget proposal to transfer funding from the Transit Account to the Highway Account as a repayable advance. Noting that APTA has not yet finalized its reauthorization recommendations, he said he would anticipate that the organization would advocate an increased program, funding guarantees, research, workforce development and a continued intermodal and multimodal approach to transportation problems. He added, "I am an optimist and I believe if we hold together we will have great success."

Ann Canby, President of the Surface Transportation Policy Partnership outlined five areas of focus for the new program:

- Defining the national purpose;
- Energy costs that are placing enormous pressure on working families;
- Climate change;
- Aging population; and
- The need to assure that our nation's economy remains competitive.

She said that the report of the National Surface Transportation Policy and Revenue Study Commission had identified the need to "rethink our core mission for transportation." She called for significant reforms in the federal program to make it more accountable, "more distributive" to urban areas, and in step with federal policies on global climate change and energy.

Jeff Shoaf, Senior Executive Director, Government and Public Relations, for the Associated General Contractors of America, pointed to the veto override this week of a gas tax increase in Minnesota as evidence that it is possible to achieve support for fuel tax increases. "We do have a good message and a lot of people in powerful places that believe in it," he said. "America's highways, roads and bridges are indispensable to the economy," he added. Shoaf said that it is important, however, to identify the national purpose, and make the transportation system something that benefits the American people in a way they understand.

Charlie Howard, Chair of the Policy Committee of the Association of Metropolitan Planning Organizations (AMPO), and Transportation Planning Director for the Puget Sound Regional Council outlined the principles that AMPO has developed for the next authorization. He called for:

- A strong federal program focused on a new national vision;
- Ensuring global competitiveness through the development of trade and freight routes;
- Improving mobility and reducing congestion in metro areas;
- Energy independence; and
- Putting more resources into maintaining roads and transit systems, with increased revenue for system preservation.

### **Climate Change and Energy Loom as Transportation Issues**

The impacts of transportation on climate change, as well as the potential impacts of rising global temperatures to transportation infrastructure were analyzed during the AASHTO Washington Briefing session “Transportation Issues for the 110<sup>th</sup> Congress – Energy and Climate Change.”

Speakers told AASHTO participants that global climate change is emerging as a major policy issue to be addressed in the debate over reauthorization of the federal highway and transit programs. Thirty-six governors, over 700 mayors, and county officials in every region of the country have signed on to aggressive plans to cutback on greenhouse gas emissions from electric energy generation, industry, and transportation.

John Horsley, AASHTO Executive Director stated, “State Department of Transportation Directors are eager to partner with stakeholders to play a role in increasing mobility while decreasing greenhouse gases and carbon dioxide emissions.”

At the same time, gasoline prices are near record levels and there is national concern about energy dependence, global security issues and peak oil.

According to the policy analysis seen to date, transportation represents around 33 percent of domestic carbon dioxide emissions, and it is estimated that highway vehicles generate 72 percent of those emissions. It is expected that the transportation sector will be called upon to do its part to reduce total national emissions.

Tom Hassenboehler, Counsel, U.S. House of Representatives Committee on Energy and Commerce discussed the Energy Independence and Security Act, which was enacted in December, 2007. The act represents a major step forward in reducing America’s dependency on foreign oil, addressing renewable fuels and corporate average fuel economy standards, reducing greenhouse gas emissions and reducing projected carbon dioxide emissions by billions of tons.

Dr. Alex Barron, American Chemical Society, Science and Technology Policy Fellow, Office of Senator Joseph Lieberman, and Geoffrey Brown, Senior Government Affairs Officer, Pew Environmental Group, discussed the proposed America's Climate Security Act of 2007 (S.2191), also known as the Lieberman–Warner Bill, which was introduced to the Senate on Oct. 18, 2007.

The bill directs the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases. The purpose of the act is to establish the core of a Federal program that will reduce United States greenhouse gas emissions

substantially enough between 2007 and 2050 to avert the catastrophic impacts of global climate change, and while preserving robust economic growth.

Gloria Shepard, Associate Administrator, Office of Planning, Environment and Realty, Federal Highway Administration (FHWA) discussed initiatives on climate change which include: research, stakeholder outreach, developing climate change Q&A, documenting best practices and case studies, technical assistance, a climate change clearing house and webinar and the development of an administration climate change reauthorization proposal. Additionally, a report, *The Potential Impacts on Climate on Transportation: The Gulf Coast Study* is slated for submission to Congress in early March. The report is one of 21 administration research priorities and was deemed by the Office of Management and Budget (OMB) as “a highly influential scientific assessment.” The report discusses the effects climate has on the design, construction, safety, operations and maintenance of transportation infrastructure and systems. For more information visit <http://www.climate-science.gov/Library/sap/sap4-7/default.php>.

### **Hart Delves into Presidential Primaries and Beyond at Washington Briefing**

[Noted public opinion researcher Peter D. Hart of Peter D. Hart Research Associates addressed AASHTO Washington Briefing delegates Wednesday, providing an inside glimpse into what is on American's minds heading into the elections later this year.](#)

Hart discussed how the electorate feels about the 2008 primaries, the race for the Democratic and Republican nominations, and the current leadership in Washington. “It’s an exciting season.” Hart said, “You can know what’s happening by looking at the world out there.”

The economy and the war in Iraq are the two main issues concerning voters this year, Hart said.

According to market research, 56 percent of Americans don’t think victory in Iraq is possible and 42 percent believe the recent troop surge isn’t working. Regarding the economy, 68 percent are dissatisfied and 44 percent believe they have already been negatively affected by a perceived economic downturn. Many Americans believe the country is headed for a recession.

There will be no small issues debated this electoral cycle, Hart said. “This is a big issue election.” Hart said. “Voters are looking for change; the problem is what change is going to be.”

According to Hart, 7 out of 10 Americans believe life for the next generation will be more difficult and 74 percent want a different policy approach from the president.

When it comes to government reform, the electorate has wants transparency, authenticity, and unity.

Another contested issue is immigration. “Immigration is a hot button issue,” Hart said, “[It] has changed the nature of every community.” Voters are concerned that they will have to compete with immigrants for jobs and social services, he said.

## Minnesota Legislature Overrides Veto of \$6.6 Billion Transportation Package

Minnesota's House of Representatives and Senate this week overrode Gov. Tim Pawlenty's veto of a \$6.6 billion transportation funding bill that is being paid for by the first increase in the state's gasoline tax in 20 years. The Senate then acted on Thursday to oust Commissioner of Transportation Carol Molnau, who will continue to serve as the state's Lieutenant Governor.

The override vote was 91-41 in the House; 47-20 in the Senate, and is the first override of some 36 vetoes by Gov. Pawlenty (R-MN). The House needed at least 90 votes to ensure an override.

"Make no mistake about it. We get it. This is a tax increase, and we know that Minnesotans are sensitive to this. They are going to get value out of this gas [tax] increase, however," House Speaker Margaret Anderson Kelliher told the *St. Paul Pioneer Press*.

The gas tax increase goes into effect April 1. The \$6.6 billion transportation package will increase Minnesota's state gas tax a nickel a gallon this year—an initial increase of 2 cents and an additional 3 cents this fall—to 25 cents. The increase will top out at 8.5 cents per gallon with a surtax of 3.5 cents added to pay for near-term bonds being used to pay for road and bridge projects in the state. It will sunset once the bonds have been repaid.

Other details of the transportation tax package include a motor fuels credit for lower income Minnesotans. Starting in 2009, they will qualify for a \$12.50 per-single filer tax credit. Changes are also in store for the vehicle registration tax when vehicles are re-licensed. The tax is based on vehicle value, up to \$189 per year on first renewal and \$99 per year thereafter.

The cities of Minneapolis and St. Paul are also able to levy a .25 percent sales tax with revenues dedicated to transit. They may also levy a \$20 motor vehicle excise tax on new sales. Outside the metropolitan area, counties may levy a .5 percent sales tax only for specific projects. Any tax increases must be approved by voters.

Text of the bill, H.F. 2800, is available at <http://www.leg.state.mn.us>.

### Molnau Not Confirmed

On Thursday, the State Senate voted 22 to 44 not to confirm Molnau as the Commissioner of Transportation. She came under criticism from the members of the Democratic Senate for her support of Pawlenty's veto. She has also been increasingly criticized by legislators during the investigation of the August 1 collapse of the Interstate 35W bridge in Minneapolis.

In a statement, Molnau called her time as transportation commissioner "one of the best experiences of my life." Molnau's assistant Bob McFarlin was named by the governor as acting commissioner.