

**INTERLOCAL AGREEMENT
FOR PUBLIC SCHOOL FACILITY PLANNING**

This agreement is entered into between the Nassau County Board of County Commissioners (hereinafter referred to as "County"), City Commission of the City of Fernandina Beach (hereinafter referred to as "City"), Town Councils of the Town of Callahan and Town of Hilliard (hereinafter referred to as "Towns"), and the School Board of Nassau County (hereinafter referred to as "School Board").

WHEREAS, the County, City, Towns, and School Board recognize their mutual obligation and responsibility for the education, nurture and general well-being of the children within their community; and

WHEREAS, the County, City, Towns, and School Board recognize the benefits that shall flow to the citizens and students of their communities by more closely coordinating their comprehensive land use and school facilities planning programs: namely (1) better coordination of new schools in time and place with land development, (2) greater efficiency for the School Board and local governments by placing schools to take advantage of existing and planned roads, water, sewer, and parks, (3) improved student access and safety by coordinating the construction of new and expanded schools with the road and sidewalk construction programs of the local governments, (4) better defined urban form by locating and designing schools to serve as community focal points, (5) greater efficiency and convenience by locating schools with parks, ballfields, libraries, and other community facilities to take advantage of shared use opportunities, and (6) reduction of pressures contributing to urban sprawl and support of existing neighborhoods by appropriately locating new schools and expanding and renovating existing schools; and

WHEREAS, Section 1013.33(15), Florida Statutes, states that existing public education facilities shall be considered compliant with the Comprehensive Plan of the appropriate local governing body; and,

WHEREAS, Section 1013.33, Florida Statutes, requires that the location of future public educational facilities must be consistent with the Comprehensive Plan and implementing Land Development Regulations of the appropriate local governing body; and

WHEREAS, Sections 163.3177(6)(h)1 and 2, Florida Statutes, require each local government to adopt an intergovernmental coordination element as part of their Comprehensive Plan that states principles and guidelines to be used in the accomplishment of coordination of the adopted Comprehensive Plan with the plans of the School Boards, and describes the processes for collaborative planning and decision making on population projections and public school siting; and

WHEREAS, Section 163.3177 and 1013.33, Florida Statutes, further requires each county and the non-exempt municipalities within that county to enter into an Interlocal Agreement with the District School Board to establish jointly the specific ways in which the plans and processes of the District School Board and the local governments are to be coordinated; and

WHEREAS, the County, City, Towns and School Board enter into this agreement in fulfillment of that statutory requirement and in recognition of the benefits accruing to their citizens and students described above;

NOW THEREFORE, be it mutually agreed between the County, City, Towns and the School Board that the following

procedures shall be followed in coordinating land use and public school facilities planning:

Section 1. Joint Meetings

- 1.1 A School Planning Committee of the County, City, Towns and School Board (herein after referred to as "Committee") shall meet at a minimum on a quarterly basis. The Committee shall be composed of one or more representatives of the County, City, Towns and School Board. The Committee shall meet to discuss issues and formulate recommendations regarding coordination of land use and school facilities planning, including such issues as population and student projections, development trends, school needs, joint use opportunities, and ancillary infrastructure improvements needed to support the school and ensure safe student access. The Committee shall implement the provisions herein. Representatives from the Northeast Florida Regional Planning Council (hereinafter referred to as "Council") shall also be invited to attend. Any member of the Committee may call a special meeting, as appropriate and pursuant to Section 286.011(1), Florida Statutes.
- 1.2 The County shall be responsible for the arrangement and notification of meetings.
- 1.3 On an annual basis, the School Board and the County shall meet for a joint session to discuss facilities planning and development policy based on the criteria herein. The joint session shall be an opportunity for the School Board and the County to hear reports, discuss policy, set direction and reach understanding concerning issues of mutual concern regarding coordination of land use and school facilities planning, including population and student growth, development trends, school needs, off-site improvements, and shared use opportunities.
- 1.4 All meetings described in Section 1 shall be conducted as public meetings, in which the public

is invited to participate and provide comment pursuant to Section 286.011, Florida Statutes.

Section 2. Student Enrollment and Population Projections

- 2.1 In fulfillment of their respective planning duties, the County, City, Towns, and School Board agree to coordinate and base their plans upon consistent projections of the amount, type, and distribution of population growth and student enrollment.
- 2.2 The School Board shall utilize student population projections based on information produced by the demographic, revenue, and education estimating conferences pursuant to Section 216.136, Florida Statutes. The School Board may request adjustment to the estimating conferences' projections to reflect actual enrollment and development trends. In formulating such a request the School Board shall coordinate with the County, City, and Towns regarding development trends and future population projections.
- 2.3 The School Board, working with the County, City, and Towns, shall allocate projected student enrollment throughout the district to reflect development trends.
- 2.4 Every two (2) years the School Board shall provide to the County, City and Towns, student data which shall include, at a minimum, the student's home address and age, and the name and location of the school they attend (student names shall not be included). Based on this material, and utilizing the records of the Nassau County Property Appraiser and U.S. Census data, the County, City and Towns shall compile a study of student population demographics and development trends. The study shall include, but not be limited to, number of children in a household, age of children, spatial distribution of students by age, property value and household size, number of bedrooms, and type of housing (single family, multifamily, duplex, apartments, and mobile homes).

- 2.5 The studies will be used by the School Board to assess the impact of development trends on student enrollment and allocate resources, as appropriate. The County, City and Towns will use the studies to assess the effectiveness of its growth management policies and address, as appropriate, the impact of development trends on the school district.

Section 3. Coordinating and Sharing of Information

- 3.1 Tentative District Educational Facilities Plan: On August 15 of each year, the School Board shall submit to the County, City and Towns, the tentative District Educational Facilities Plan (herein after referred to as "the Plan"). The Plan shall be consistent with the requirements of Section 1013.35, Florida Statutes, and include projected student populations apportioned geographically, an inventory of existing school facilities, projections of facility space needs, information on relocatables, options to reduce the need for additional permanent student stations, and as an attachment general locations of new schools for the 5-, 10-, and 20-year time periods. The Plan shall also include a financially feasible district facilities work program for a 5-year period. The County, City and Towns shall review the Plan and provide comment to the School Board within thirty (30) working days on the consistency of the Plan with the local Comprehensive Plan, whether a Comprehensive Plan Amendment shall be necessary for any proposed educational facility, and whether the local government supports a necessary Comprehensive Plan Amendment. If the School Board does not receive a written response from the County, City and Towns within the thirty (30) day time frame, then it shall be deemed that the Tentative District Educational Facilities plan is consistent with the Comprehensive Plan of that local government. If the local government does not support a Comprehensive Plan Amendment, the matter shall be resolved pursuant to Section 8 of this agreement.

- 3.2 Educational Plant Survey: The School Board shall submit a draft of the Educational Plant Survey to the County, City, and Towns prior to adoption by the School Board. The County, City and Towns shall evaluate and make recommendations to the School Board within thirty (30) working days regarding the consistency of planned school facilities, including school closures, with the local government Comprehensive Plan. If the School Board does not receive a written response from the County, City or Towns within the thirty (30) day time frame, then it shall be deemed that the Educational Plant Survey is consistent with the Comprehensive Plan of that local government.
- 3.3 Growth and Development Trends: On July 1 of each year, local governments shall provide the School Board with a report on growth and development trends within their jurisdiction. This report shall be in tabular, graphic, and textual formats and shall include the following:
- (a) The type, number, and location of residential units, which have received zoning approval or site plan approval;
 - (b) Information regarding Future Land Use Map (herein after referred to as "FLUM") Amendments that may have an impact on school facilities through changes in density and land use changes likely to affect enrollment patterns;
 - (c) Building permits issued for the preceding year and their location;
 - (d) Information regarding the conversion or redevelopment of housing or other structures into residential units, which are likely to generate new students;
 - (e) The identification of any development orders issued which contain a requirement for the provision of a school site as a condition of development approval; and,

(f) A copy of the local government's 5-year Capital Improvement Plan.

3.4 The County, City, Towns and School Board shall jointly develop guidelines and criteria for the setting aside of land for public educational facilities to facilitate those procedures outlined for a Development of Regional Impact (DRI), pursuant to Section 380.06, Florida Statutes.

Section 4. School Site Selection, Potential School Closures, and Reuse of Existing School Facilities

4.1 When the need for a new school is identified in the District Educational Facilities Plan, the School Board shall establish a Land Search Committee, pursuant to School Board Rule 1.12, for the purpose of identification, research and recommendation for new school sites. In addition to appropriate representatives of the School Board, the Committee shall include staff members of the County, City and Towns, as appropriate.

4.2 When the need for a new school is identified in the District Educational Facilities Plan, the Land Search Committee shall develop a list of potential sites in the area of need. The list of potential sites for new schools and the list of schools identified in the District Educational Facilities Plan for potential closure shall be submitted to the local government with jurisdiction for an informal assessment regarding consistency with the local government's Comprehensive Plan, including, as applicable: environmental suitability, transportation and pedestrian access, availability of infrastructure and services, safety concerns, land use compatibility, and other relevant issues. In addition, both the local governments and Land Search Committee shall consider the issues identified in subsection 4.3 of this agreement as each school site is evaluated. Based on the information gathered during this review for new schools, the Committee shall make a recommendation to the Superintendent or designee of one or more sites in order of preference.

4.3 The following issues shall be considered by the Land Search Committee, School Board, and local governments when evaluating new school sites:

- (a) The location of schools proximate to residential development and contiguous to existing school sites, and which provide logical focal points for community activities and serve as the cornerstone for innovative urban design, including opportunities for shared use and collocation with other community facilities;
- (b) The location of elementary schools proximate to and within walking distance of the residential neighborhoods served;
- (c) The location of high schools on the periphery of residential neighborhoods, with access to major roads;
- (d) Compatibility of the school site with present and projected uses of adjacent property;
- (e) Site acquisition and development costs;
- (f) Safe access to and from the school site by pedestrians and vehicles;
- (g) Existing or planned availability of adequate public facilities and services to support the school;
- (h) Environmental constraints that would either preclude or render cost infeasible the development or significant renovation of a public school on the site;
- (i) Adverse impacts on archaeological or historic sites listed in the National Register of Historic Places or designated by the affected local government as a locally significant historic or archaeological resource;

- (j) The site is well drained and the soils are suitable for development or are adaptable for development and outdoor educational purposes with drainage improvements;
- (k) Whether the proposed location is in conflict with the local government's Comprehensive Plan, Storm Water Management Plan, or Watershed Management Plan;
- (l) Whether the proposed location is within a velocity flood zone, floodway, or a Category 1 Storm Surge zone, as determined by the Council's Storm Surge Atlas, or the 100-year floodplain, as determined by Federal Emergency Management Agency criteria and as delineated in the applicable Comprehensive Plan;
 - (1) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
 - (2) "Velocity flood zone" means the portion of the floodplain subject to storm surges with velocity waves of three (3) feet or more during the 100-year flood. For example, the Coastal High Hazard Areas.
- (m) The proposed site can accommodate the required parking, circulation and queuing of vehicles; and,
- (n) The proposed location lies outside the area regulated by Section 333.03 and 1013.33, Florida Statutes, regarding the construction of public educational facilities in the vicinity of an airport.

4.4 At least sixty (60) days prior to acquiring or leasing property or its intent to lease or purchase the subject property that may be used

for a new public educational facility, the School Board shall provide written notice to the local government with jurisdiction over the use of the land. The local government, upon receipt of this notice, shall notify the School Board within forty-five (45) days if the proposed new school site is consistent with the land use categories and policies of the local government's comprehensive plan. If the School Board does not receive a written response from the local government of jurisdiction within the forty-five (45) day time frame, then it shall be deemed that the proposed site is consistent with the Comprehensive Plan of that local government. This preliminary notice does not constitute the local government's Determination of Consistency pursuant to Section 1013.33 (12), Florida Statutes.

4.5 At least sixty (60) days prior to reopening a closed school that may be used as a new public educational facility, the School Board shall provide written notice to the local government with jurisdiction over the use of the land. The local government, upon receipt of this notice, shall notify the School Board within forty-five (45) days if the proposed reopened school is consistent with the land use categories and policies of the local government's Comprehensive Plan. If the School Board does not receive a written response from the local government of jurisdiction within the forty-five (45) day frame, then it shall be deemed that the proposed reopened school is consistent with the Comprehensive Plan of that local government. This notice does not constitute the local government's Determination of Consistency pursuant to Section 1013.33(12), Florida Statutes. In the event the School Board appoints a committee to make a recommendation, the local government with jurisdiction shall be invited to participate.

4.6 In the event the School Board appoints a committee to make a recommendation to reopen a closed school for non-educational purposes, the

School Board shall invite the local government with jurisdiction to participate.

Section 5 Site Plan Review

- 5.1 As early in the design phase of the site plan as feasible, but at least ninety (90) days before commencing construction, the School Board shall request a formal Determination of Consistency from the local government with jurisdiction over the use of land. The local government shall determine in writing within forty five (45) days after receiving a request and the necessary information from the School Board, whether a proposed public educational facility is consistent with the local Comprehensive Plan and Land Development Regulations.
- 5.2 If a school site is consistent with the FLUM categories and land use policies that allow public schools, the local government may not deny the site plan application, based on the adequacy of the site as it solely relates to the needs of the school and pursuant to Site Plan Review Regulations as appropriate, but may impose reasonable development standards and conditions in accordance with Section 1013.51(1), Florida Statutes. The School Board and local government of jurisdiction shall jointly determine, on a case-by-case basis, the need and extent of onsite and offsite improvements to support new, proposed expansion and redevelopment of existing schools, and the party responsible for implementing said improvements pursuant to Section 1013.51(1), Florida Statutes. The local government may consider the adequacy of the site plan as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property, pursuant to Section 1013.33(13), Florida Statutes.
- 5.3 If a school site is inconsistent with the local Comprehensive Plan and Land Development Regulations, the local government shall have the right to deny the application.

Section 6. Local Planning Agency, FLUM Amendments, Rezoning, and Development Approvals

6.1 The County shall include a representative appointed by the School Board on the local Planning Board, pursuant to Section 163.3174(1), Florida Statute. The County may at its discretion grant voting status to the School Board representative. The School Board shall appoint a representative to attend those meetings of the City and Towns' local Planning Boards at which the Boards consider FLUM Amendments, DRI Development Orders, and Rezoning applications of ten (10) or more dwelling units or major mixed-use development projects that would, if approved, increase residential density on the property that is the subject of the application, and provide comment as appropriate.

(a) For proposed developments of two hundred (200) dwelling units or more, the Planning Director, or equivalent, of the local government with jurisdiction shall invite a representative of the School Board to participate in a pre-application conference with the developer. The purpose of the participation of the School Board in the pre-application conference will be to advise the developer how to address the potential impact of the development on school facilities and capacity, in accordance with this section.

6.2 The County, City and Towns agree to give the School Board notification of FLUM Amendments, DRI Development Orders, and Plat and Rezoning applications of ten (10) or more dwelling units or major mixed-use development project applications pending before them that may affect student enrollment, enrollment projections, or school facilities. Such notice shall be provided at least ten (10) working days from receipt of the completed application.

6.3 Within twenty (20) working days after notification by the local government, the School Board shall advise the local government of the

school enrollment impacts anticipated to result from the proposed FLUM Amendments, DRI Development Orders, and Plat and Rezoning applications of ten (10) or more dwelling units or major mixed-use development projects as appropriate, and whether sufficient capacity exists or is planned to accommodate the impacts. If the local government does not receive written response from the School Board within the twenty (20) day time frame, then it shall be deemed that approval of the application is consistent with State Requirements for Education Facilities. School capacity shall be reported consistent with State Requirements for Educational Facilities.

- 6.4 If sufficient capacity is not available or planned to serve the development at the time of impact, the School Board shall specify how it proposes to meet the anticipated student enrollment demand. Alternatively, the School Board, local government, and developer shall collaborate to find means to ensure sufficient capacity shall exist to accommodate the development, such as, developer contributions, project phasing, or developer provided facility improvements.
- 6.5 In reviewing and approving FLUM Amendments, DRI Development Orders, and Plat and Rezoning applications of ten (10) or more dwelling units or major mixed-use development projects, the County, City and Towns shall consider the following issues:
 - (a) School Board comments;
 - (b) Available school capacity or planned improvements to increase school capacity;
 - (c) The provision of school sites and facilities within planned neighborhoods;
 - (d) Compatibility of land uses adjacent to existing schools and school property that has gone through the FLUM Amendment process to secure a designation of "Public Buildings and Grounds";

- (e) The location of parks, recreation and neighborhood facilities with school sites;
- (f) The linkage of schools, parks, libraries and other public facilities with bikeways, trails, and sidewalks for safe access;
- (g) Traffic circulation plans, which serve schools and the surrounding neighborhood;
- (h) The provision of off-site signalization, signage, access improvements, and sidewalks to serve schools; and
- (i) The inclusion of school bus stops and turnarounds.

6.6 In formulating community development plans and programs, the County, City and Towns shall consider the following issues:

- (a) Giving priority to scheduling capital improvements that are coordinated with and meet the capital needs identified in the School Board District Educational Facilities Plan;
- (b) Providing incentives to the private sector to identify and implement creative solutions to developing adequate school facilities in residential developments;
- (c) Targeting community development improvements in older and distressed neighborhoods near schools; and
- (d) Working to address and resolve multi-jurisdictional public school issues.

Section 7. Location and Shared Use

7.1 Location and shared use of facilities are important to both the School Board and local governments. The School Board shall look for opportunities to locate and share use of school facilities and civic facilities when preparing the District Educational Facilities Plan.

Likewise, location, shared use opportunities and the financial impact of capital improvements shall be considered by the local governments when preparing the annual update to the comprehensive plan's schedule of capital improvements and when planning and designing new, or renovating existing, community facilities. For example, opportunities for shared use with public schools shall be considered for libraries, parks, recreation facilities, community centers, auditoriums, learning centers, museums, performing arts centers, stadiums and Enhanced Hurricane Protection Areas (EHPAs). In addition, location and shared use of school and governmental facilities for health care and social services shall be considered.

- 7.2 A separate agreement shall be developed for each instance of shared use, which addresses legal liability, operating and maintenance costs, scheduling of use, and facility supervision or any other issues that may arise from shared use.

Section 8. Resolution of Disputes

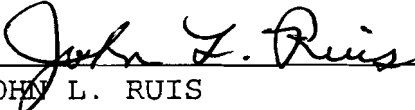
- 8.1 If the parties to this agreement are unable to resolve any issue covered in this agreement, in which they may be in disagreement, such dispute shall be resolved in accordance with Governmental Conflict Resolution procedures specified in Chapter 164, Florida Statutes (see Appendix 1).

Section 9. Oversight Process


- 9.1 The Committee shall submit, on an annual basis, a written report reviewing implementation of the Interlocal Agreement. The County shall monitor implementation of the Interlocal Agreement and distribute the annual report to the School Board, City and Towns, requesting comment on the implementation of the Interlocal Agreement. A representative of the Committee shall, if requested, meet with the School Board, City and Towns to discuss and answer questions about implementation of the Interlocal Agreement, as appropriate.

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the County, City, Towns and the School Board on this 12th day of June, 2003.

ATTEST:

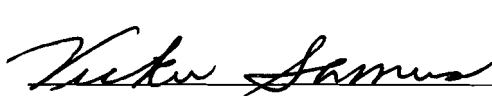



JOHN L. RUIS
SUPERINTENDENT OF SCHOOLS
NASSAU COUNTY



KATHY BURNS
SCHOOL BOARD CHAIRMAN
NASSAU COUNTY

NASSAU COUNTY BOARD OF COUNTY COMMISSIONERS


VICKIE SAMUS, CHAIRMAN


NICK D. DEONAS

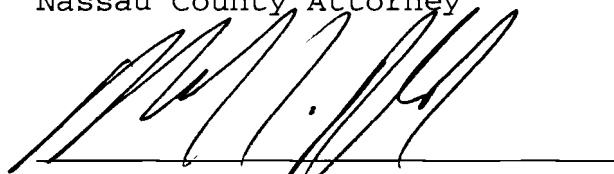

ANSLEY AGREE


FLOYD L. VANZANT

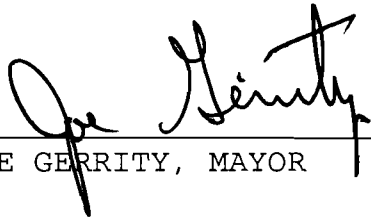

MARIANNE MARSHALL
ATTEST:


J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

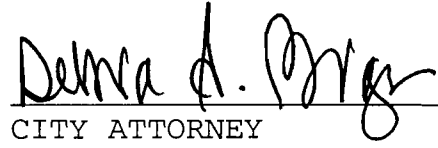
Approved as to form by the
Nassau County Attorney


MICHAEL S. MUIRLIN

CITY OF FERNANDINA BEACH, FLORIDA

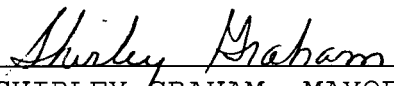


JOE GERRITY, MAYOR



CITY ATTORNEY

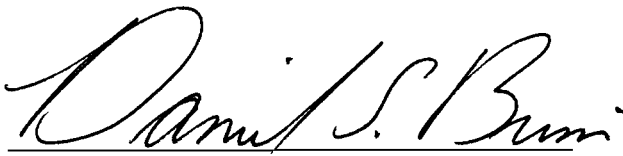
TOWN OF CALLAHAN



SHIRLEY GRAHAM, MAYOR

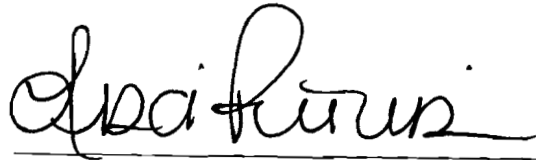


CLEO HORNE, TOWN CLERK



TOWN ATTORNEY

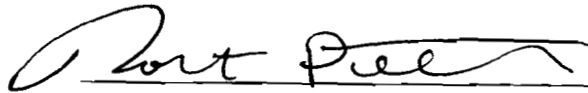
TOWN OF HILLIARD



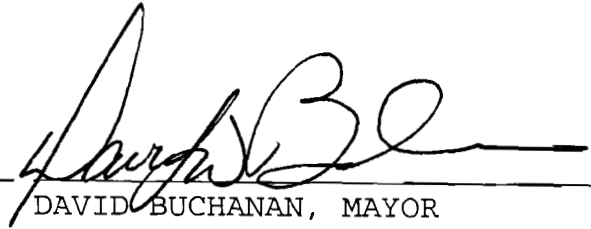
LISA PURVIS, TOWN CLERK



PRESIDENT, TOWN COUNCIL



TOWN ATTORNEY



DAVID BUCHANAN, MAYOR

CHAPTER 164
GOVERNMENTAL DISPUTES

- 164.101 Short title.
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164.101 Short title.--Sections 164.101-164.1061 may be cited as the "Florida Governmental Conflict Resolution Act."

History.--s. 1, ch. 87-346; s. 1, ch. 99-279.

164.102 Purpose and intent.--The purpose and intent of this act is to promote, protect, and improve the public health, safety, and welfare and to enhance intergovernmental coordination efforts by the creation of a governmental conflict resolution procedure that can provide an equitable, expeditious, effective, and inexpensive method for resolution of conflicts between and among local and regional governmental entities. It is the intent of the Legislature that conflicts between governmental entities be resolved to the greatest extent possible without litigation.

History.--s. 2, ch. 87-346; s. 2, ch. 99-279.

164.1031 Definitions.--For purposes of this act:

(1) "Local governmental entities" includes municipalities, counties, school boards, special districts, and other local entities within the jurisdiction of one county created by general or special law or local ordinance.

(2) "Regional governmental entities" includes regional planning councils, metropolitan planning organizations, water supply authorities that include more than one county, local health councils, water management districts, and other regional entities that are authorized and created by general or special law that have duties or responsibilities extending beyond the jurisdiction of a single county.

(3) "Governmental entity" includes local and regional governmental entities.

(4) "Local government resolution" has the same meaning as provided in s. 166.041.

(5) "Governing body" means the council, commission, or other board or body in which the general legislative powers of a local or regional governmental entity are vested.

(6) "Designee" means a representative with full authority to negotiate on behalf of a governmental entity and to recommend settlement to the appropriate decision-making body or authority of the governmental entity.

(7) "Noticed public meeting" means a public meeting in which notice is given at least 10 days prior to the meeting by publication in the newspaper of widest circulation in the jurisdictions of the primary conflicting governmental entities. Each primary conflicting governmental entity shall provide notice within its jurisdiction.

(8) "Primary conflicting governmental entities" means the governmental entity initiating the conflict resolution process provided for in this act, together with the governmental entity or entities with whom the initiating governmental entity has a conflict. The term does not include other governmental entities which may have a role in approving or implementing a particular element or aspect of any settlement of the conflict, or which may receive notice or intervene in the conflict resolution process provided for in this act.

(9) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a conflict between two or more parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues and exploring settlement alternatives.

History.--s. 3, ch. 99-279.

164.1041 Duty to negotiate.--

(1) If a governmental entity files suit against another governmental entity, court proceedings on the suit shall be abated, by order of the court, until the procedural options of this act have been exhausted. The governing body of a governmental entity initiating conflict resolution procedures pursuant to this act shall, by motion, request the court to issue an order abating the case pursuant to this section. All governmental entities are encouraged to use the procedures in this act to resolve conflicts that may occur at any time between governmental entities, but shall use these procedures before court proceedings, consistent with the provisions of this section. The provisions of this act do not apply to administrative proceedings pursuant to chapter 120 or any appeal from any administrative or trial court judgment or decision. Nothing in this act shall limit a governmental entity from initiating and prosecuting eminent domain, foreclosure, or other court proceedings where, as a function of the nature of the suit, other governmental entities are necessary parties, if there are no materially disputed issues with regard to such joinder. Nothing in this act shall limit a governmental entity from filing any counterclaim or cross-claim in any litigation in which it is a defendant. Nothing in this act is intended to abrogate other provisions

of law which provide procedures for challenges to specific governmental actions, including, but not limited to, comprehensive plan amendments and tax assessment challenges. The provisions of this act shall not apply to conflicts between governmental entities if an alternative dispute resolution process, such as mediation or arbitration, is specifically required by general law or agreed to by contract, interlocal agreement, or other written instrument, or if the governmental entities have reached an impasse during an alternative dispute resolution process engaged in prior to the initiation of court action. Further, nothing in this act shall preclude a governmental entity from filing a suit without resort to the provisions of this act against any federal or other governmental entity not governed by state law. Nothing in this section shall be deemed to toll or waive jurisdictional time limits on specific pleadings or motions set forth in statute or court rules unless modified pursuant to s. 164.1061.

(2) If a governmental entity, by a three-fourths vote of its governing body, finds that an immediate danger to the health, safety, or welfare of the public requires immediate action, or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of this act are complied with, no notice or public meeting or other proceeding as provided by this act shall be required before such a court proceeding. If a water management district, by three-fourths vote of its governing body, finds that an immediate danger to the natural resources, water resources, and wildlife requires immediate declaratory relief, or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of this act are complied with, no notice or public meeting or other proceeding as provided by this act shall be required before such a court proceeding. However, the court, upon motion, may review the justification for failure to comply with the provisions of this act and make a determination as to whether the provisions of this act should be complied with prior to action by the court. If the court determines that the provisions of this act should be complied with prior to court action and that following the provisions of this act will not result in the compromise of significant legal rights, the court shall abate the suit until the provisions of this act are complied with.

History.--s. 4, ch. 99-279.

164.1051 Scope.--It is not the intent of this act to limit the conflicts that may be considered under this act, except that any administrative proceeding pursuant to chapter 120 shall not be subject to this act. Pursuant to s. 164.1041, this act shall apply, at a minimum, to governmental conflicts arising from any of the following issues or processes, including, but not limited to:

1) Any issue relating to local comprehensive plans or plan amendments prepared pursuant to part II of chapter 163, including, but not limited to, conflicts involving levels of service for public facilities and natural resource protection.

(2) Municipal annexation.

(3) Service provision areas.

- (4) Allocation of resources, including water, land, or other natural resources.
- (5) Siting of hazardous waste facilities, land fills, garbage collection facilities, silt disposal sites, or any other locally unwanted land uses.
- (6) Governmental entity permitting processes.
- (7) Siting of elementary and secondary schools.

History.--s. 5, ch. 99-279.

164.1052 Initiation of conflict resolution procedure; duty to give notice.--

(1) The governing body of a governmental entity shall initiate the conflict resolution procedures provided by this act through passage of a resolution by its members. The resolution shall state that it is the intention of the governing body to initiate the conflict resolution procedures provided by this act prior to initiating court proceedings or prosecuting action on a previously filed court proceeding to resolve the conflict and shall specify the issues of conflict and the governmental entity or entities with which the governing body has a conflict. Within 5 days after the passage of the resolution, a letter and a certified copy of the resolution shall be provided to the chief administrator of the governmental entity or entities with which the governing body has a conflict by certified mail, return receipt requested. The letter shall state, at a minimum, the conflict, other governmental entities in conflict with the initiating governmental entity, the justification for initiating the conflict resolution process, the proposed date and location for the conflict assessment meeting to be held pursuant to s. 164.1053, and suggestions regarding the officials who should be present at the conflict assessment meeting. The initiating governmental entity also shall mail a copy of the letter and resolution to any state, regional, or local governmental entities which, in the determination of the initiating governmental entity, may have a role in approving or implementing a particular element or aspect of any settlement of the conflict or whose substantial interests may be affected by the resolution of the conflict, and any other governmental entity deemed appropriate by the initiating governmental entity.

(2) Within 10 days after receiving a copy of a certified letter noticing the initiation of the conflict resolution procedure, other governmental entities receiving the notice may elect to participate in the conflict resolution process, but are not entitled by virtue of that participation to control the timing or progress of the conflict resolution process, which at all times shall remain in the discretion of the primary conflicting governmental entities. However, a governmental entity which receives notice of a conflict may, by passage of its own resolution and by otherwise following the procedures set forth in subsection (1), join the conflict resolution process as a primary conflicting governmental entity. The intent of a governmental entity to join in the conflict resolution process shall be communicated to the initiating governmental entity by certified mail. The joining governmental entity also shall mail a copy of the letter to any state, regional, or local governmental entities which, in the determination of the joining governmental entity, may have a role in approving or

implementing a particular element or aspect of any settlement of the conflict or whose substantial interests may be affected by the resolution of the conflict, and any other governmental entity deemed appropriate by the joining governmental entity.

(3) For purposes of this act, the date of initiation of the conflict resolution procedure shall be the date of the passage of a resolution by a governmental entity.

History.--s. 6, ch. 99-279.

164.1053 Conflict assessment phase.--

(1) After the initiation of the conflict resolution procedure, and after proper notice by certified letter has been given, a conflict assessment meeting shall occur. The meeting shall be scheduled to occur within 30 days of the receipt of the letter initiating the conflict resolution procedure. Public notice shall be given for this meeting in accordance with s. 164.1031(7). The conflict assessment meeting shall be scheduled to allow the attendance by the appropriate personnel from each primary conflicting governmental entity. The chief administrator, or his or her designee, for each governmental entity that is a primary conflicting governmental entity in the conflict resolution procedure shall be present at this meeting. If the entities in conflict agree, the assistance of a facilitator may be enlisted for the conflict assessment meeting. During the conflict assessment meeting, the governmental entities shall discuss the issues pertaining to the conflict and an assessment of the conflict from the perspective of each governmental entity involved.

(2) If a tentative resolution to the conflict can be agreed upon by the representatives of the primary conflicting governmental entities at the conflict assessment meeting, the primary conflicting governmental entities may proceed with whatever steps they deem appropriate to fully resolve the conflict, including, but not limited to, the scheduling of additional meetings for informal negotiations or proposing a resolution to the governing bodies of the primary conflicting governmental entities.

(3) In the event that no tentative resolution can be agreed upon, the primary conflicting governmental entities shall schedule a joint public meeting as described in s. 164.1055, which meeting shall occur within 50 days of the receipt of the first letter initiating the conflict resolution process from the initiating governmental entity.

(4) After the conclusion of the conflict assessment meeting, any primary conflicting governmental entity may request mediation as provided in s. 164.1055(2).

History.--s. 7, ch. 99-279.

164.1055 Joint public meeting.--

(1) Failure to resolve a conflict after following authorized procedures as specified in s. 164.1053 shall require the scheduling of a joint public meeting between the primary conflicting governmental entities. The governmental entity first initiating the conflict

resolution process shall have the responsibility to schedule the joint public meeting and arrange a location. If the entities in conflict agree, the assistance of a facilitator may be enlisted to assist them in conducting the meeting. In this meeting, the governing bodies of the primary conflicting governmental entities shall:

- (a) Consider the statement of issues prepared in the conflict assessment phase.
- (b) Seek an agreement.
- (c) Schedule additional meetings of the entities in conflict, or of their designees, to continue to seek resolution of the conflict.

(2) If no agreement is reached, the primary conflicting governmental entities shall participate in mediation, the costs of which shall be equally divided between the primary conflicting governmental entities. The primary conflicting governmental entities shall endeavor in good faith to select a mutually acceptable mediator. If the primary conflicting governmental entities are unable to mutually agree on a mediator within 14 days after the joint public meeting, the primary conflicting governmental entities shall arrange for a mediator to be selected or recommended by an independent conflict resolution organization, such as the Florida Conflict Resolution Consortium, and shall agree to accept the recommendation of that independent organization, or shall agree upon an alternate method for selection of a mediator, within 7 business days after the close of that 14-day period. Upon the selection of a mediator, the conflicting governmental entities shall schedule mediation to occur within 14 days, and shall issue a written agreement on the issues in conflict within 10 days of the conclusion of the mediation proceeding. The written agreement shall not be admissible in any court proceeding concerning the conflict, except for proceedings to award attorney's fees under s. 164.1058, where the agreement may be used to demonstrate an entity's refusal to participate in the process in good faith.

History.--s. 8, ch. 99-279.

164.1056 Final resolution.--If there is failure to resolve a conflict between governmental entities through the procedures provided by ss. 164.1053 and 164.1055, the entities participating in the dispute resolution process may avail themselves of any otherwise available legal rights.

History.--s. 9, ch. 99-279.

164.1057 Execution of resolution of conflict.--Resolution of a conflict at any phase shall require passage of an ordinance, resolution, or interlocal agreement that reflects the terms or conditions of the resolution to the conflict.

History.--s. 10, ch. 99-279.

164.1058 Penalty.--If a primary conflicting governmental entity which has received notice of intent to initiate the conflict resolution procedure pursuant to this act fails to participate in good faith in

the conflict assessment meeting, mediation, or other remedies provided for in this act, and the initiating governmental entity files suit and is the prevailing party in such suit, the primary disputing governmental entity which failed to participate in good faith shall be required to pay the attorney's fees and costs in that proceeding of the governmental entity which initiated the conflict resolution procedure.

History.--s. 4, ch. 87-346; s. 11, ch. 99-279.

Note.--Former s. 164.104.

164.1061 Time extensions.--Any of the time requirements set forth in this act may be extended to a date certain by mutual agreement, in writing, of the primary conflicting governmental entities. To the extent such agreement would cause any jurisdictional time requirements to run with regard to a particular claim, the agreement shall have the effect of extending any jurisdictional time requirements with regard to that claim for the period set forth in the agreement.

History.--s. 12, ch. 99-279.

164.1065 Applicability of ch. 99-279.--This act shall take effect upon becoming a law, but shall not be construed to abrogate any otherwise applicable agreements or requirements of any contracts, interlocal agreements, or other written instruments which are in existence as of the effective date of this act. To the extent that any contractual or other agreement provisions in existence on the effective date of this act conflict with the provisions of this act, the provisions in the written agreement shall control.

History.--s. 14, ch. 99-279.