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DATE: March 31, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
Community Affairs
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4031
RELATING TO: Land Use Planning and Development
SPONSOR(S): Representative Gay
COMPANION BILL(S): SB 1726 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 8 NAYS 0
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I. SUMMARY:

This bill:

- ▶ changes the name of the Division of Resource Planning and Management;
- ▶ revises criteria for determining de minimis impact of certain transportation facilities for concurrency purposes;
- ▶ amends the process for adoption of comprehensive plans or plan amendments to require the state land planning agency to do the following: maintain a single file for plan amendments; construe the nature of written public comments to be included in the agency review; and require the agency to review or identify all written comments on proposed plan amendments;
- ▶ exempts certain marine exhibition park complex construction under certain circumstances from consistency determination with a local government comprehensive plan;
- ▶ revises the provisions relating to the evaluation and appraisal process and specifies the contents and format of evaluation and appraisal reports;
- ▶ provides for amendments to comprehensive plans pursuant to report recommendations; provides for the state land planning agency to review the coordination efforts of local, regional, and state agencies and the evaluation and appraisal process; reports are required;
- ▶ requires the state land planning agency to review the appraisal and evaluation process and submit a report to the Governor, the Administration Commission, the Speaker of the House, and the President of the Senate;
- ▶ requires the governing body of a municipality to notify the board of county commissioners of the notice of annexation at the time of publication or posting of the notice;
- ▶ permits rulemaking authority of the Governor relating to strategic regional policy plans and deletes the requirements for review and recommend revisions to strategic regional policy plans for consistency with the state comprehensive plan;
- ▶ deletes a provision requiring the Executive Office of the Governor to be involved in rulemaking relating to, review, evaluation, and revision of, strategic regional policy plans of regional planning councils;
- ▶ updates certain provisions regarding military base reuse plans and deletes provisions relating to military base closures, realignments, or defense-related readjustment and diversification;
- ▶ permits the state land planning agency's submission of certain regulations and plans to the Administration Commission related to areas of critical state concern.
- ▶ provides for inclusion of day care facilities in developments of regional impact and revises the required contents of regional reports.
- ▶ provides an additional subject for consistency review of federal activities in neighboring states relating to the state's coastal management program.
- ▶ directs the state land planning agency and the Department of Transportation to review and evaluate certain provisions of law relating to land use and transportation coordination & planning issues; a report is due by January 15, 1999; a study commission to assist in the review and evaluation is to be appointed by the Secretary of the Department of Community Affairs and the Secretary of the Department of Transportation;
- ▶ requires certain municipalities and counties to adopt, within 1 year, an ordinance to regulate the siting, construction, and operation of wireless communication transmission facilities.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Structure of Department of Community Affairs:

Section 20.18, Florida Statutes, provides for the structure of the Department of Community Affairs. The section reads in part:

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

- (1) The head of the Department of Community Affairs is the Secretary of Community Affairs. The secretary shall be appointed by the Governor subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.
- (2) The following units of the Department of Community Affairs are established:
 - (a) Division of Emergency Management.
 - (b) Division of Housing and Community Development.
 - (c) Division of Resource Planning and Management.

Concurrency:

The concurrency requirement of the Local Government Comprehensive Planning and Land Development Regulation Act (part II, ch. 163, Florida Statutes) is a growth management tool designed to accommodate development by ensuring that adequate facilities are available as growth occurs.

De minimis Exception

Subsection 163.3180(6), Florida Statutes, provides an exception from transportation concurrency requirements for a development which constitutes a "de minimis impact." A de minimis impact is one percent of the maximum volume at the adopted level of service of the affected transportation facility. The definition specifically *includes* impacts generated by a single family home on an existing lot, regardless of the level of deficiency of the roadway. The definition specifically *excludes* impacts which exceed the adopted level of service standard on a designated hurricane evacuation route, or if it would exceed 110 percent of the sum of existing volumes and projected volumes from approved projects on a transportation facility.

Process for Adoption of Comprehensive Plan or Plan Amendment:

Section 163.3184, Florida Statutes, governs the adoption and review, including public participation and required time frames, of local government comprehensive plan amendments.

Coordination

Subsection 163.3184(2), Florida Statutes, provides that each plan or plan amendment proposed to be adopted requires the state land planning agency (the Department of Community Affairs or "DCA"), to be responsible for the following: plan review; coordination; and the preparation and transmission of comments to the local governing body responsible for the comprehensive plan.

Intergovernmental Review

Subsection 163.3184(4), Florida Statutes, provides the procedure for the intergovernmental review of the plan or plan amendment. This subsection requires DCA to, within 5 working days of determining that a review is to be conducted, transmit a copy of the proposed plan or plan amendment to various government agencies for comment or response. These agencies include, but are not limited to the following: the Department of Transportation; the water management district; the regional planning council (RPC); and, in the case of municipal plans, the county land planning agency. If the agencies choose to respond or comment, they must provide their comments to DCA within 30 days after the receipt of the proposed plan or amendment. The RPC must also provide its written comments to DCA within 30 days after the receipt of the proposed plan or amendment. The RPC must specify any objections, recommendations, and comments of any other regional agencies to which the RPC has referred the proposed plan or amendment.

State Land Planning Agency Review

Subsection 163.3184(6), Florida Statutes, provides that DCA, upon receipt of comments from the various governmental agencies, as obtained through intergovernmental review, has 30 days to review the comments. During that time period, DCA must transmit, in writing, its comments to the local government, along with any objections and recommendations for modifications. In the event a federal, state, or regional agency has implemented a permitting program, DCA cannot require the local government to duplicate or exceed the permitting program's requirements in the local government's comprehensive plan or in its land development regulations. However, nothing in this section prohibits DCA when conducting its review of local plans or amendments from making objections, recommendations, and comments or from making compliance determinations regarding densities and intensities consistent with the provisions of this part.

Evaluation and Appraisal Process:

Section 163.3191, Florida Statutes, requires each local government to prepare an evaluation and appraisal report (EAR) on their local government comprehensive plan. The EAR is the principal process for updating local comprehensive plans to reflect changes in state policy on planning and growth management. The EAR must include statements of the effect of future changes to growth management plans and rules on the local comprehensive plan, actions necessary to meet planning issues, anticipated plan amendments necessary to implement changes, and public participation processes.

Municipal Annexation:

Section 171.044, Florida Statutes, provides that the owners of real property in an unincorporated area that is contiguous to a municipality and is reasonably compact may petition the municipality for voluntary annexation.

Strategic Regional Policy Plans:

Section 186.507, Florida Statutes, requires the development of a long range guide for physical, economic, and social development of a planning district through the identification of regional goals and policies. Each of the eleven RPCs located within the State must prepare and adopt a Strategic Regional Policy Plan (SRPP).

Executive Office of the Governor - Rulemaking Authority

Subsection 186.507(2), Florida Statutes, requires the Executive Office of the Governor (EOC), to adopt, by rule, the minimum criteria to be addressed in each SRPP and create a uniform format for each plan. The required criteria must emphasize that each RPC, when preparing and adopting a SRPP, focus on regional resources and facilities, rather than on local resources and facilities.

SRPP and the State Comprehensive Plan

Section 186.508, Florida Statutes, requires regional planning councils throughout the state to submit strategic plans to the EOC for inclusion in the state comprehensive plan. The processes for adoption are as follows:

- The EOC, or its designee, is required to coordinate implementation of the SRPP with the Evaluation and Appraisal Reports (EAR) required by section 163.3191, Florida Statutes.
- Within 60 days, the EOC, or its designee, must review the proposed SRPP for consistency with the adopted state comprehensive plan and return the proposed SRPP, along with any recommend revisions, to the RPC.
- Rules adopting the SRPP are not subject to rule challenges under subsection 120.56(2), Florida Statutes, or to drawout proceedings under subparagraph 120.54(3)(c)2., Florida Statutes.
- Once the rules are adopted, they are subject to an invalidity challenge, by substantially affected persons, under subsection 120.56(3), Florida Statutes. Substantially affected persons include, but are not limited to, the EOC.
- The rules are adopted by the RPC within 90 days after receipt of the revisions recommended by the EOC.
- The rules are effective upon filing with the Department of State, notwithstanding the provisions of subparagraph 120.54(3)(3)6., Florida Statutes.

Evaluation of Strategic Regional Policy Plans

Section 186.511, Florida Statutes, provides for the evaluation process of the SRPPs. Each RPC is required to prepare an EAR on its SRPP at least once every five years. The EAR should do the following:

- Assess the successes or failures of the SRPP;
- Address changes to the state comprehensive plan; and
- Prepare and adopt, by rule amendments, revisions, or updates to the plan.

The EAR is required to be prepared and submitted for review on a schedule established by rule by the EOC. The schedule is required to facilitate and be coordinated with, to the maximum extent feasible, the EAR of local government comprehensive plans pursuant to section 163.3191, Florida Statutes, for local governments within each comprehensive planning district.

Military Base Reuse Plans:

Section 288.975, Florida Statutes, provides an optional, alternative base reuse planning process for the reuse of military bases that supersedes the provisions of chapter 380, Florida Statutes, pertaining to developments of regional impact.

Paragraph 288.975(2)(f), Florida Statutes, defines the term "Regional policy plan."

Subsection 288.975(3), Florida Statutes, establishes the procedures and timeframes for host governments to provide notice of intent to use the optional provisions of the act. No later than 6 months after May 31, 1994, or 6 months after the designation of a military base for closure by the Federal Government the host local government must notify the secretary of the DCA and the director of the Office of Tourism, Trade, and Economic Development (OTTED). A decision not to use the optional provisions of this act results in all activities within the jurisdiction of the host government becoming subject to all land use planning statutes and regulations, including those of chapter 163 and 380, Florida Statutes.

Subsection 288.975(8), Florida Statutes, permits the host local government to request OTTED to coordinate a resubmission workshop concerning a military base reuse plan within the jurisdiction of the host local government for the purpose of coordination of planning and review efforts with various state agencies, water management districts, regional planning councils, and affected local governments.

Subsection 288.975(9), Florida Statutes, requires host local governments to, no later than 12 months after notifying the agencies of its intent to use the optional provisions of this section to:

- Send a copy of the proposed military base reuse plan for review to any affected local governments, DEP, OTTED, DCA, Department of Transportation (DOT); Department of Health and Rehabilitative Services (DHRS), Department of Agriculture and Consumer Services (DACS); Department of State (DOS); Florida Game and Fresh Water Fish Commission (FGFWFC); and any applicable water management district (WMD) and regional planning councils; or
- Petition the secretary of DCA for an extension of the deadline for submitting a reuse plan based on changes or delays in the closure process by the federal Department of Defense or for reasons otherwise deemed to promote the orderly and beneficial planning of the subject military base reuse. The secretary may grant up to a 1 year date of submission extension.

Subsection 288.975(10), Florida Statutes, establishes the following procedures for the adoption of a proposed military reuse plan:

- The review entities (affected local governments, DEP, OTTED, DCA, DOT, DHRS, DACS, DOS, FGFWFC, applicable WMDs, and applicable RPCs), review and provide comments to host government within 60 days after receipt of the proposed reuse plan;
- Commencement of the review period is advertised in newspapers of general circulation within the host local government;
- Any affected local government is permitted public comment;
- No later than 60 days after the receipt and consideration of all comments, and two public hearings, the host local government adopts the plan;
- The host government complies with the notice requirements contained in subsection 163.3184(15), Florida Statutes.

Notwithstanding the procedures listed above, a host local government may waive the 60 day adoption deadline and extend the timeframe for adoption to 180 days after the 60th day following the receipt, consideration of all comments, and second public hearing or the date when this act became law, whichever is later.

Any action taken by a local government to adopt a military base reuse plan after the 60 day deadline is deemed to be a waiver of the 60 day deadline.

Subsection 288.975(12), Florida Statutes, provides the following process for resolving disputes of the parties:

- The petitioning party(ies) and host local government have 45 days to resolve the issues in dispute;
- By mutual consent of the petitioning parties and the host local government, other affected parties that previously submitted comments on the proposed military base

reuse plan may be given the opportunity to formally participate in the decisions and agreements made in these and subsequent proceedings; and

- A third-party mediator may be used to help resolve the issues.

In the event the resolution of the dispute cannot be reached within 45 days, the following process will occur:

- The petitioning party(ies) and host local government may extend dispute resolution for up to 45 days; and
- If the resolution of the dispute is not resolved within the 45 days, the disputed issues are submitted to DCA (if the disputed issues stem from multiple petitions, the mediation will be consolidated into a single proceeding at DCA).

DCA has 45 days to hold an informal hearing. At the hearing DCA:

- Identifies the issues in dispute;
- Prepares a record of the proceedings; and
- Provides recommended solutions to the parties.

If the parties fail to implement the recommended solutions within 45 days, DCA will submit the matter to the Administration Commission for final action. The report to the Administration Commission:

- Lists each issue in dispute;
- Identifies the recommended solutions provided to the parties; and
- Makes recommendations for actions the Administration Commission should take to resolve the disputes.

If DCA is a party to the dispute then the dispute is be resolved by a party jointly selected by DCA and the host local government. The selected party also complies with the responsibilities that would have been placed on DCA.

Within 45 days after receiving the report from DCA, the Administration Commission will take action to resolve the dispute. In deciding on the resolution, the Administration Commission considers:

- The nature of the dispute;
- The compliance of the parties;
- The extent of the conflict between the parties; and

- The public interests involved.

In the event the Administration Commission, in its final order, includes a term or condition that requires any local government to amend its local government comprehensive plan, the local government will amend its plan within 60 days after the order is issued. Any such amendment is exempt from the limitation of the frequency of plan amendments contained in subsection 163.3187(2), Florida Statutes, and a public hearing, pursuant to subparagraph 163.3184(15)(b)1., Florida Statutes, is not required. A final order of the Administration Commission is subject to appeal pursuant to section 120.68, Florida Statutes.

In the event of an appeal of the Administration Commission's final order, the 60 day deadline for adoption of the local government's comprehensive plan amendment is tolled during the pendency of any local, state, or federal administrative or judicial proceeding relating to the military base reuse plan.

Military Base Closure, Retention, Realignment, or Defense-related Readjustment and Diversification:

Subsection 288.980(1), Florida Statutes, provides the legislative intent to assist communities with military installations from being adversely affected by federal base realignment or closure actions.

Paragraph 288.980(2)(a), Florida Statutes, authorizes OTTED to award grants from specifically appropriated funds to applicant's eligible projects that are:

- Related to the retention of military installations potentially affected by federal base closure or alignment; or
- Activities related to preventing the potential realignment or closure of a military installation officially identified by the Federal Government for potential realignment or closure.

Paragraph 288.980(2)(b), Florida Statutes, defines "activities" eligible for grant funds to include: studies, presentations, analyses, plans, and modeling. "Activities" does not include: travel, costs incidental to travel, and staff salaries.

Paragraph 288.980(2)(c), Florida Statutes, provides that grants provided to an applicant in any one year may not exceed \$250,000. Applicants for the grants are required to:

- Represent a community with a military installation(s) that could be adversely affected by federal base realignment or closure;
- Match at least 25% of any grant award in cash or in-kind services (in-kind matches must be directly related to the activities for which the grant is sought);
- Prepare a coordinated program or plan which delineates how the eligible project will be administered;

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

Paragraph 288.980(2)(d), Florida Statutes, provides the factors OTTED will consider, at a minimum, in making awards:

- The relative value of the particular military installation in terms of its importance to the local and state economy relative to other military installations vulnerable to closure;
- The potential job displacement with the local community if the military installation should close; and
- The potential adverse impact on industries and technologies which service the military installation.

Paragraph 288.980(2)(e), Florida Statutes, defines the term "applicant", as used in this section.

Areas of Critical State Concern:

Section 380.05, Florida Statutes, provides that the DCA may from time to time recommend to the Governor and Cabinet, sitting as the Administration Commission, specific Areas of Critical State Concern (ACSC). It also provides a process by which the DCA reviews the Land Development Regulations (LDR) and the local comprehensive plan submitted by a local government for consistency and compliance with the principles for guiding the development of the area specified by the Administration Commission (commission) by rule.

Subsection 380.05(8), Florida Statutes, provides a process for DCA to follow when a local government fails to submit a LDR or a local government comprehensive plan, or if its LDR or comprehensive plan does not comply with the principles for guiding development in an ACSC.

Developments of Regional Impact:

Section 380.06, Florida Statutes, created the DRI review process. As defined by general law, a DRI is "any development which, because of its character, magnitude, or location, would have a substantial effect on the health and safety, or welfare of citizens of more than one county." The purpose of the DRI review process was not to prohibit development, but to manage it in order to address the multi-jurisdictional impacts and to protect natural resources.

Section 380.06(12), Florida Statutes, provides for a regional planning agency, if designated, or the local government to prepare and submit to the local government a report and recommendations on the regional impacts of the proposed development. The report will consider whether the development's impact on state or regional resources or facilities identified in applicable state or regional plans is favorable or unfavorable.

Florida Quality Developments:

Section 380.06, Florida Statutes, creates the Florida Quality Development program. This program encourages developers to create projects that are compatible with the environment and surpass certain criteria for DRI approval. The incentive to meet the higher standards is a reduction in the length of the review process.

Coastal Planning and Management - Federal Consistency:

Section 380.23, Florida Statutes, creates the federal consistency review process. Activities and uses of various federal projects are reviewed to ensure that such activities and uses comply with the state's coastal management program.

Florida Communities Trust:

The Florida Communities Trust (FCT) was created by the Legislature in 1989, to serve as a non-regulatory agency to assist local governments in implementing the conservation, recreation and open space, and coastal elements of their comprehensive plans, and in conserving natural resources and resolving land use conflicts. The Trust's current mission is to assist local governments with redevelopment, resource enhancement, public access to waterways, urban waterfront restoration, and site preservation, through funding of projects, land acquisition, and technical assistance. As designed, the Trust is to use Preservation 2000 dollars to match local government contributions for acquisition, but the match percentages vary.

Military Base closure, retention, realignment, or defense-related readjustment and diversification - grants programs:

Florida Economic Reinvestment Initiative

The Florida Economic Reinvestment Initiative was established to respond to the need to develop alternative economic diversification strategies in the wake of base closures. The initiative consists of following three grant programs:

- The Florida Defense Planning Grant Program (funds are used to analyze the extent of the state's dependency on defense infrastructure by defense-dependent communities);
- The Florida Defense Implementation Grant Program (funds are made available to defense-dependent communities to implement diversification strategies); and

- The Florida Military Installation Reuse Planning and Marketing Grant Program (funds are used to help counties, cities, and local economic development councils).

Defense-Related Business Adjustment Program

The Defense-Related Business Adjustment Program was established to assist defense-related companies in the creation of increased commercial technology development.

Office of Tourism, Trade, and Economic Development:

The Office of Tourism, Trade, and Economic Development (OTTED), is required to establish rules to implement the Base closure, retention, realignment, or defense-related readjustment and diversification program.

B. EFFECT OF PROPOSED CHANGES:

Structure of Department of Community Affairs - Paragraph 20.18(2)(c), Florida Statutes: Changes the name of the Division of Resource Planning and Management to the Division of Community Planning.

County Qualification Retention - Section 125.2801, Florida Statutes: Referring to counties which qualify to create a jury district and qualifies for small county technical assistance, deletes reference to the state land planning agency entering into an agreement with a municipality with fewer than 5,000 residents, or a county with a population of fewer than 50,000 residents, to focus its resources on selected issues when updating its comprehensive plan.

Concurrency - Subsection 163.3180(6), Florida Statutes: Addresses a technical corrects "glitch" in the transportation concurrency de minimus standard that was revised in the 1997 Legislative Session.

Adoption of Comprehensive Plans - Subsections 163.3184(2), (4), and (6)(c), Florida Statutes: Adds additional requirements for maintaining correspondence, papers, notes, memoranda, and other documents contained within the plan or plan amendment review file. Clarifies that all written agency and public comments are part of the file. Creates a new requirement for DCA to identify in writing a list of all documents received or generated by the agency with sufficient specificity to enable the documents to be identified and copied, if requested.

Amendment of Adopted Comprehensive Plan - Marine Exhibition Park Complex Exception - Subsection 163.3187(12): Creates a statutory determination of consistency with the applicable local comprehensive plan as a result of renovation, expansion, or additions to a marine exhibition park complex which has been in continuous existence for at least 30 years and is located on land comprised of at least 25 contiguous acres and is owned in fee simple by a county or municipality.

Amendment of Adopted Comprehensive Plan - Subsection 163.3187(6), Florida

Statutes: Authorizes exceptions for amendment of comprehensive plans after the required date for adoption of a local government's evaluation and appraisal (EAR) report, including the following:

- Allows local governments to amend comprehensive plans after adopting an EAR regardless of its sufficiency for a period of one year;
- Prohibits amendments after one year until EAR found sufficient;
- A local government may adopt amendments without the above listed limitation when the EAR has been determined to sufficiently address all pertinent provisions; and
- Any improperly adopted plan amendments may be readopted and transmitted after EAR found sufficient.

Evaluation and Appraisal of Comprehensive Plan - Section 163.3191, Florida

Statutes: Substantially rewords this section as follows:

- EAR is required once every 7 years;
- EAR is part of ongoing process to review local comprehensive plans in context of changing local, state, and regional policies and conditions and to identify major issues at the local level;
- EAR is to serve as summary audit, identifying major issues, and is to be based on local government analysis of the major issues;
- EAR is to address population growth, extent of vacant land, financial feasibility of the plan and infrastructure needs, location of development, major local issues, statutory and administrative law changes, assessment of plan objectives related to major issues, successes and shortcomings of each plan element, corrective actions and public participation process;
- The Local planning agency is to prepare the EAR and make recommendations to the governing board after at least one public hearing;
- 90 days prior to the adoption date, the local government may submit a proposed EAR for review and comment;
- After the governing board has considered the state land planning agency's review comments and has adopted the EAR, the state land planning agency has 60 days to make a preliminary sufficiency review, and 30 additional days to make the final sufficiency review;
- The state land planning agency's sufficiency review must concentrate on the adequacy of the EAR in addressing update requirements in whole or as modified by the optional scoping process;

- The state land planning agency may delegate EAR review to regional planning councils by agreement(s);
- EAR adoption will be determined by a schedule prepared by the state land planning agency, with cities following counties;
- The Administration Commission may impose sanctions against local governments failing to adopt/submit EARs and/or subsequent amendments, except for excusable delays or planning reasons;
- No rules are required to implement the EAR provisions;
- The state land planning agency is required to prepare a report documenting how, and in what format, technical assistance can be rendered to local governments, including the provision of EAR templates;
- The state land planning agency is required to conduct EAR process assessments and to make reports to the Legislature on this subject;
- Local governments with EARs due before October 1, 1998, will be evaluated under the existing statutory and rule requirements;
- Local governments with EAR adoption between September 30, 1998, and February 2, 1999, are granted the option of deciding which process will be used for review of their EARs;
- An optional scoping process to focus EAR issues involving appropriate local, regional, and state agencies is created.

Voluntary Annexation - Subsection 171.044(6): Creates a requirement for municipalities voluntarily annexing unincorporated areas of the county must be sent, by certified mail, to the board of county commissioners, a copy of the public notice, at the time of publication.

Strategic Regional Policy Plans - Subsection 186.507(2), Florida Statutes: Eliminates the requirement for the Executive Office of the Governor (EOG) to adopt a rule establishing the minimum criteria to be addressed in each strategic regional policy plan (SRPP).

Strategic Regional Policy Plans - Adoption - Subsection 186.508(1), Florida Statutes: Eliminates the requirement for each RPC to submit to the EOG its proposed SRPP. Eliminates the requirement that the RPC adopt the rules within 90 days after the receipt of the revisions recommended by the EOG.

Strategic Regional Policy Plans - Evaluation -Section 186.511, Florida Statutes: Eliminates the requirement that the EOG establish, by rule, a schedule to review the RPC's evaluation and appraisal report of its SRPP. Creates the requirement that the

SRPP review facilitate and be coordinated with, to the maximum extent feasible, the evaluation and revision of local government comprehensive plans within each planning district.

Military Base Reuse Plans - Sections 288.975 and 288.980, Florida Statutes:

Modifies the current optional military base reuse planning process by simplifying the request for extension process; limits OTTED grant awards to a maximum of \$250,000; and requires the applicant to match at least 50% of awarded grant.

Areas of Critical State Concern - Subsection 380.05, Florida Statutes: Eliminates the requirement for DCA to submit to the Administration Commission recommended land development regulations (LDR), comprehensive plans (plan) or amendments applicable to an ACSC, when local governments fail to submit them or when the submitted LDR, plan, or plan amendment fails to comply with the ACSC rule.

Developments of Regional Impacts - Subsection 380.06(12), Florida Statutes: Eliminates the reference to the state land development plan. Adds day-care facilities as an issue in the development of regional impact review process.

Florida Quality Developments program - Section 380.061(3)(a), Florida Statutes:

Deletes the requirement that the design and construction of the development must be done in a manner consistent with the adopted state plan, the state land development plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Federal Consistency - Section 380.23, Florida Statutes: Provides that federal activities within the territorial limits of neighboring states could be subject to a consistency review by state officials when these activities would significantly impact land and water resources of the state.

Land Use and Transportation Study Committee: Requires the Department of Community Affairs and the Department of Transportation to jointly establish a "Land Use and Transportation Study Committee" to consider changes to the land use and transportation provisions of part II of chapter 163, Florida Statutes. Special emphasis is to be given to concurrency of the highway system, LOS methodologies and land use impact assessments used to project transportation needs. Provides that a report summarizing the results of the committee be submitted to the Governor, the President of the Senate, and the Speaker of the House by January 15, 1999.

Wireless Communication Transmission Facilities - Siting, Construction, and Operation Ordinance Requirement: Requires municipalities and counties, which have not adopted an ordinance regulating the siting, construction, and operation of wireless communication transmission facilities to adopt such ordinances no later than June 1, 1999.

State Comprehensive Plan: Repeals the purpose statement of the state comprehensive plan as it relates to the growth management portion.

Growth Management Portion of the State Comprehensive Plan: Repeals the requirement for the growth management portion of the state comprehensive plan to set forth recommendations on how to integrate the Florida Water Plan, the state land development plan, and required transportation plans.

Florida Economic Reinvestment Initiative: Repeals the Florida Defense Planning Grant Program, the Florida Defense Implementation Grant Program, and grant program.

Florida Military Base Installation Reuse Planning and Marketing Grant Program: Repeals this grant program.

Defense-Related Business Adjustment Program: Repeals this program.

Office of Tourism, Trade, and Economic Development: Repeals the rulemaking authority of OTTED regarding Base closure, retention, realignment, or defense-related readjustment and diversification programs contained in section 288.980, Florida Statutes. Limits grants awarded by OTTED for retention or prevention of military base closures to \$250,000. Requires applicants to match at least 50% of the grant awarded.

Apalachicola Bay Area Resource Planning and Management Committee - Repeals the requirement for the Governor to appoint a resource planning and management committee for the Apalachicola Bay Area.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes.

Office of Tourism, Trade, and Economic Development: This bill eliminates the authority of OTTED to make rules to implement the purpose and intent of the Base closure, retention, realignment, or defense-related readjustment and diversification programs.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes.

Transportation and Land Use Study Committee: This bill requires the Department of Community Affairs and the Department of Transportation to

jointly establish a Transportation and Land Use Study Committee to evaluate transportation coordination and land use issues.

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

No.

Florida Economic Reinvestment Initiative: This bill repeals this initiative and the three grant programs authorized by the initiative. The Legislature has not funded these programs for several years.

Military Base Installation Reuse Planning and Marketing Grant Program: This bill repeals this grant program. The Legislature has not funded this program for several years.

Defense-Related Business Adjustment Program: This bill repeals this program. The Legislature has not funded this program for several years.

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 20.18, Florida Statutes;
Section 125.2801, Florida Statutes;
Sections 163.3180, 163.3184, 163.3187, and 163.3191, Florida Statutes;
Section 171.044, Florida Statutes;
Sections 186.009, 186.507, 186.508, and 186.511, Florida Statutes;
Sections 288.975 and 288.980, Florida Statutes;
Sections 380.031, 380.05, 380.0555, 380.06, 380.061, 380.065, 380.23, and

380.504, Florida Statutes;

E. SECTION-BY-SECTION RESEARCH:

The Committee Substitute for HB 4031 does the following:

Section 1: Amends paragraph 20.18(2)(c), Florida Statutes, changing the name of the Division of Resource Planning and Management to the Division of Community Planning.

Section 2: Amends section 125.2801, Florida Statutes, deletes reference in to the state land planning agency entering into an agreement, with a municipality with a population of fewer than 5,000 residents or a county with a population of fewer than 50,000 residents, to focus its resources on selected issues when updating its comprehensive plan for counties which qualify to create a jury district and qualify for small county technical assistance.

Section 3: Amends subsection 163.3180(6), Florida Statutes, clarifying a glitch relating to de minimis transportation impacts in the existing language of the statute.

Section 4: Amends subsections 163.3184(2), (4), and (6)(c), Florida Statutes, creating paragraph 163.3184(6)(d), Florida Statutes, requiring the following:

- DCA is to maintain a single file concerning any proposed or adopted plan amendment submitted by a local government. The file is to contain all correspondence, papers, notes, memoranda, and hard copies of electronic mail.
- Require local governments to notice the public hearing date and the mailing date of the proposed plan or plan amendment.
- Requires that written comments submitted by the public, within the 30 days after notice of transmittal by local governments, will be considered as submitted by a governmental agency and will become part of the single file.
- Requires that the review comments by DCA be based solely on written comments.
- Requires DCA to create a list, as a part of the single file, that identifies all written communications with DCA regarding the proposed plan or plan amendment. The list identifies, with sufficient specificity, the documents received or generated by DCA regarding the proposed plan or plan amendment.

Section 5: Creates subsection 163.3187, establishing a statutory determination of consistency with the adopted comprehensive plan for renovations, expansions, or additions to a marine exhibition park complex, if the complex meets the following criteria:

- The complex has been in continuous existence for at least 30 years;
- The complex is located on land comprised of at least 25 contiguous acres;

- The complex is owned in fee simple by a county or municipality;

The renovations, expansions, or additions may include the following: recreational and educational uses; restaurants; gift shops; marine or water amusements; environmentally related theaters; and any other compatible uses.

Section 6: Amends subsection 163.3187(6), Florida Statutes, authorizes exceptions for amendment of comprehensive plans after the required date for adoption of a local government's evaluation and appraisal (EAR) report, including the following:

- Allows local governments to amend comprehensive plans after adopting an EAR regardless of its sufficiency for a period of one year;
- Prohibits amendments after one year until EAR found sufficient;
- A local government may adopt amendments without the above listed limitation when the EAR has been determined to sufficiently address all pertinent provisions; and
- Any improperly adopted plan amendments may be readopted and transmitted after EAR found sufficient.

Section 7: Amends section 163.3191, Florida Statutes, substantially amending this section as follows:

- EAR is part of ongoing process to review local comprehensive plans in context of changing local, state, and regional policies and conditions and to identify major issues at the local level;
- EAR is required once every 7 years;
- EAR is to serve as summary audit, identifying major issues, and is to be based on local government analysis of the major issues;
- EAR is to address population growth, extent of vacant land, financial feasibility of the plan and infrastructure needs, location of development, major local issues, statutory and administrative law changes, assessment of plan objectives related to major issues, successes and shortcomings of each plan element, corrective actions and public participation process;
- The Local planning agency is to prepare the EAR and make recommendations to the governing board after at least one public hearing;
- 90 days prior to the adoption date, the local government may submit a proposed EAR for review and comment;
- After the governing board has considered the state land planning agency's review comments and has adopted the EAR, the state land planning agency has 60 days to

make a preliminary sufficiency review, and 30 additional days to make the final sufficiency review;

- The state land planning agency's sufficiency review must concentrate on the adequacy of the EAR in addressing update requirements in whole or as modified by the optional scoping process;
- The state land planning agency may delegate EAR review to regional planning councils by agreement(s);
- EAR adoption will be determined by a schedule prepared by the state land planning agency, with cities following counties;
- The Administration Commission may impose sanctions against local governments failing to adopt/submit EARs and/or subsequent amendments, except for excusable delays or planning reasons;
- No rules are required to implement the EAR provisions;
- The state land planning agency is required to prepare a report documenting how, and in what format, technical assistance can be rendered to local governments, including the provision of EAR templates;
- The state land planning agency is required to conduct EAR process assessments and to make reports to the Legislature on this subject;
- Local governments with EARs due before October 1, 1998, will be evaluated under the existing statutory and rule requirements;
- Local governments with EAR adoption between September 30, 1998, and February 2, 1999, are granted the option of deciding which process will be used for review of their EARs;
- An optional scoping process to focus EAR issues involving appropriate local, regional, and state agencies is created.

Section 8: Adds subsection 171.044, requiring municipalities to provide a copy of the notice of voluntary annexation, by certified mail, to the board of county commissioners, on the date the notice is published.

Section 9: Amends subsection 186.507(2), Florida Statutes, eliminates the requirement for the Executive Office of the Governor to adopt a rule establishing the minimum criteria to be addressed in each regional planning council's strategic regional policy plan.

Section 10: Amends subsection 186.508(1), Florida Statutes, eliminates the requirement for each regional planning council to submit to the Executive Office of the Governor its proposed strategic Regional Policy Plan. Eliminates the requirement that the regional planning council adopt the rules adopting the strategic regional policy plans

within 90 days after the receipt of the recommend revisions of the Executive Office of the Governor.

Section 11: Amends section 186.511, Florida Statutes, eliminates the requirement of the Executive Office of the Governor establish, by rule, a schedule to review the regional planning councils' evaluation and appraisal reports of its strategic regional policy plan. Creates the requirement that the review of the strategic regional policy plan be coordinated with, to the extent feasible, the evaluation and revision of local government comprehensive plans within each planning district.

Section 12: Amends subsections 288.975(2)(f), (3), (8), (9), (10) and (12), Florida Statutes, to do the following:

- Amend the definition of "Regional policy plan" delete the reference to the regional planning council's rule adopting the strategic regional policy plan.
- Delete the reference to the "May 31, 1994, or 6 months after" deadline for notification to DCA by a local government of its intention to use the optional provisions of this act.
- Redesignates the Department of Health and Rehabilitative Services as the department of Children and Family Services.
- Removes the 1 year extension limit DCA is authorized to grant for the required submission date of the reuse plan.
- Expands the 60 day deadline for host local governments to adopt the military base reuse plan (after receipt and consideration of all comments and two public hearings) to 180 days.
- Deletes the optional waiver provisions timeframes for host governments to adopt the military base reuse plan.
- Provides for additional procedures for the dispute resolution process related to the optional military base reuse. The current process for dispute resolution, when DCA is not a party to the action, includes the following:
 1. Party or parties petition the host local government regarding disputed issues of the military base reuse plan.
 2. The host local government and petitioning party(ies) have 45 days to resolve the issues in dispute (other affected parties may be given the opportunity to joint the dispute resolution process and a third-party mediator may be used to help resolve the issues).
 3. If resolution is not achieved, the petitioning party(ies) and host local government may extend the dispute process for another 45 days;

4. If resolution of the dispute cannot be achieved during the above-listed timeframe, then the issues of dispute are submitted to DCA. DCA has 45 days to hold an informal hearing.
5. At the informal hearing, DCA will:
 - ▶ Identify the issues in dispute;
 - ▶ Prepare a record of the proceedings; and
 - ▶ Provide recommended solutions to the parties.
6. The parties have 45 days to implement the recommended solutions.

The revised/expanded procedure provides the additional dispute resolution process, in the event the parties fail to implement the recommended solutions within the 45 day period. The process is as follows:

1. DCA submits the matter to the Division of Administrative Hearings (DOAH), for a formal hearing pursuant to ch. 120, Florida Statutes.
 2. DOAH holds a formal hearing and issues a recommended order.
 3. Within 45 days of receiving the order, DCA must forward the recommended order by DOAH and DCA's recommended final order to the Administration Commission for final action.
- Provides for minor changes to existing dispute resolution process when DCA is a party to the dispute. These changes include:
 1. Clarifies that the issues in dispute will be submitted to a party jointly selected by DCA and the host local government.
 2. Within 45 days of receiving the recommendation (of solutions) from DCA, the Administration Commission must take action to resolve the issues in dispute.
 3. In making its decision, the Administration Commission must consider the following:
 - ▶ The recommendation from DCA;
 - ▶ The recommended order from DOAH; and
 - ▶ The compliance of the parties with the requirements of this section.

Section 13: Amends subsections 288.980(1) and (2), Florida Statutes, to do the following:

- Deletes the provisions encouraging the creation of local or regional base realignment or closure commissions;
- Authorizes the Office of Tourism, Trade and Economic Development (OTTED), to award grants from any funds available to it to support activities related to the retention of military installations potentially affected by federal base closure or realignment;
- Places a limit on total grant awards to any applicant to \$250,000;
- Increases the local government matching requirements from 25% to 50%;
- Expands the coordinated program or plan of action delineating how the project will be administered to also require two plans:
 - A plan to ensure close cooperation between civilian and military authorities with regards to funded activities; and
 - A plan for public involvement.
- Deletes the definition of applicant for the purposes of base closure and realignment.

Section 14: Amends subsection 380.05(8), Florida Statutes, to allow DCA the option to submit recommended land development regulations and local government comprehensive plans should the local government fail to submit them.

Section 15: Amends paragraph 380.06(12)(a), Florida Statutes, deletes the reference to the state land development plan in the review of regional reports and adds daycare facilities to the list of issues addressed by the developer of a development of regional impact (DRI).

Section 16: Amends paragraph 380.061(3)(a), Florida Statutes, deletes requirement that Florida Quality Developments be designed and constructed to be consistent with the adopted state plan, the state land development plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.

Section 17: Creates paragraph 380.23(3)(d), to permit consistency review of federal activities within the territorial limits of neighboring states when they would significantly impact land and water resources of the state.

Section 18: Creates a technical transportation and land use study committee. The committee must consist of 15 members, appointed by the secretary of DCA, the secretary of DOT, to include the following:

- Representatives of local governments;
- Regional planning councils;

- The private sector;
- Metropolitan planning organizations;
- Citizen groups; and
- Environmental groups.

The committee must review and evaluate the law relating to land use, transportation coordination, and planning issues. The evaluation must address the roles of the following:

- Local governments;
- Regional planning councils;
- State agencies; and
- Metropolitan planning organizations.

The evaluation must place special emphasis on the following:

- Concurrency of the highway system;
- Levels of service methodologies; and
- Land use impacts assessments used to project transportation needs.

DCA and DOT must prepare a report summarizing the results of the review. The report must contain any recommendations for appropriate changes identified in the law. The report must be submitted to the Governor, the President of the Senate, and the Speaker of the House.

Section 19: Amends subsection 380.504(1), Florida Statutes, to change the reference of the Division of Resource Planning to the Division of Community Planning, located in the Florida Communities Trust section of ch. 380, Florida Statutes.

Section 20: Creates a requirement for each municipality and county that does not have an ordinance providing for the siting and regulating the construction and operation of wireless communication transmission facilities must adopt an ordinance providing for the siting and regulating construction and operation of wireless transmission facilities prior to June 1, 1999.

Section 21: Repeals subsections 288.980(3), (4), (5), and (6); 380.031(17), 380.0555(7), and 380.06(14)(a), Florida Statutes, to repeal the following:

- The Florida Economic Reinvestment Initiative (consisting of 3 grant programs: the Florida Defense Planning Grant Program; the Florida Defense Implementation Grant Program; and the Florida Military Installation Reuse Planning and Marketing Grant Program);
- The Defense-Related Business Adjustment Program;
- The authority of the Secretary of Commerce to award non-federal matching funds specifically appropriated for construction, maintenance, and analysis of a Florida workforce database;
- The authority of the Office of Tourism, Trade, and Economic Development to establish guidelines to implement base closure, retention, realignment, or defense-related readjustment and diversification programs;
- Reference to the “state land development plan” in the definitions section of the Environmental Land and Water Management Act;
- Eliminates Apalachicola Bay Resource Planning and Management Committee, appointed by the Governor; and
- Eliminates the reference to the “state land development plan” in Development of Regional Impact Criteria outside areas of critical state concern review.

Section 22: Provides that except as otherwise provided for in this act, this act will take effect July 1 of the each in which enacted or upon becoming law, whichever occurs first.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate - Changing the name of the Division of Resource Planning and Management to the Division of Community Planning: There will be a minimal fiscal impact to DCA due to the reprinting of agency letterhead; business cards for division employees; and the updating of DCA publications, administrative rules, directories, and Internet sites. There will be a minimal fiscal impact to other state agencies that have references to the division.

\$21,000 - Transportation and Land Use Study Committee: According to DCA and based on the recent experience with the Evaluation and Appraisal Technical Advisory Committee (EARTAC), the Transportation and Land Use Study Committee (TLUSC), will need to meet four times to meet the requirements of this bill. Based on the costs of EARTAC, the cost will be approximately \$21,000 for travel related expenses (15 members X \$350 per member X 4 meetings).

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

\$21,000 - Transportation and Land Use Study Committee (travel related expenses).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Indeterminate

Process for adoption of comprehensive plan or plan amendment: According to DCA, there may be some minor, additional costs to local governments associated with the additional requirement to publish a notice of transmittal of the proposed plan amendment to DCA.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

No.

Base closure, retention, realignment, or defense-related readjustment and diversification: The Florida Economic Reinvestment Initiative (consisting of the Florida Defense Planning Grant Program, the Florida Defense Implementation Grant Program, and the Florida Military Installation Reuse Planning and Marketing Grant

Program), and the Defense-Related Business Adjustment Program, have not been funded by the Legislature in recent years.

3. Effects on Competition, Private Enterprise and Employment Markets:

See previous comments.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money. This bill does require municipalities or counties to publish a notice of transmittal of a plan or plan amendment when a plan or plan amendment is transmitted to DCA for review.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill is not anticipated to reduce the authority of municipalities or counties to raise total aggregate revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the total aggregate municipality/county percentage share of a state tax.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee on Community Affairs adopted a "strike-everything" amendment on March 30, 1998, and subsequently approved as a committee substitute to the bill. The major differences between the committee substitute and the bill are as follows:

- The CS deletes reference to EAR requirement contained in section 125.2801, Florida Statutes, relating to County qualification retention to create a jury district.
- The bill provided for an expansion of the sustainable communities demonstration project, the CS does not.

- The bill eliminated the requirement that the Executive Office of the Governor's (EOG) adopt by rule the minimum criteria to be addressed in each strategic regional policy plan (SRPP) and a uniform format for each plan. The CS allows the EOG the option of adopting a rule to establish the minimum criteria to be addressed in each SRPP.
- The CS creates a determination of consistency with applicable adopted comprehensive plans any renovation, expansion, or additions to a marine exhibition park complex if the complex has been in continuous existence for at least 30 years and is located on land comprised of at least 25 contiguous acres and owned in fee simple by a county or municipality.
- The CS provides for substantial rewording of the evaluation and appraisal report process of review of comprehensive plans. [See, **SECTION-BY-SECTION RESEARCH** of this research statement.]
- The CS requires notice of voluntary annexation by the governing body of the municipality to the board of county commissioners of the county in which the municipality is located.
- The CS requires each municipality and county that does not have an ordinance providing for the siting, construction, and operation of wireless communications facilities to adopt such an ordinance prior to June 1, 1999.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:
Prepared by:

Legislative Research Director:

Tonya S. Chavis, Esq.

Joan Highsmith-Smith