

STORAGE NAME: h1639.ca

DATE: April 19, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS - LOCAL LEGISLATION**

BILL #: HB 1639

RELATING TO: Collier County

SPONSOR(S): Representative Goodlette

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill repeals provisions of law which enabled Collier County and its municipalities, to plan, zone, and regulate subdivisions and which provided related powers and duties.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1967, the Florida Legislature passed chapter 67-1246, Laws of Florida. This special act enabled the Collier County and its municipalities to plan, zone, and regulate subdivisions. The act provided for the establishment and maintenance of boards and commissions for the purpose of executing the act; limited areas and jurisdictions; established functions powers and duties; provided for approval of a comprehensive plan; created zoning purposes and districts; specified what could be regulated; created a new procedure for establishing boundaries and adopting regulations; provided for amendment; provided for special exceptions; provided for continuity; established a zoning board of appeals; provided for subdivision regulation; created rules and procedures regarding plats.

Chapter 67-1246, Laws of Florida, was amended in 1969 by chapter 69-964, Laws of Florida, which provided for different zoning ordinances in different geographical areas of Collier County and allowed for a lack of uniformity therein.

Constitutional and Statutory Changes to County and Municipal Home Rule Power

In 1968, Florida's sixth constitution was adopted. Among the significant changes that it provided for was Article VIII, Section 1(g), Florida Constitution, which granted counties operating under charters all powers of local self government not inconsistent with general law, or with special law approved by vote of the electors; counties not operating under charters were granted "such power of self-government as is provided by general or special law" pursuant to Article VIII, Section 1(f). Subsequently, the Legislature has adopted Chapter 125, Florida Statutes, which provides the "power to carry on county government," section 125.01, Florida Statutes. Similarly, Chapter 166, Florida Statutes, provides that "municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law," section 166.021, Florida Statutes. The effect of these constitutional and statutory changes is that counties and municipalities were no longer required to have direct grants of power from the Legislature in order to take action.

Statutory Changes to Growth Management

Since 1969, the Florida Legislature has enacted a comprehensive system of laws that govern growth management that includes: the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; sections 163.3161-163.3244, Florida Statutes; chapter 380, Florida Statutes, Land and Water Management, which includes the Development of Regional Impact and Areas of Critical State Concern programs; chapter 186, Florida Statutes, establishing regional planning councils and requiring the development of state and regional plans; and chapter 187, Florida Statutes, the State Comprehensive Plan. These laws superseded existing special acts in their respective subject areas.

Local Legislation

In meeting the requirements set forth by the state growth management laws, Collier County has developed and adopted a comprehensive plan and a Land Development Code.

C. EFFECT OF PROPOSED CHANGES:

This bill repeals chapters 67-1246 and 69-964, Laws of Florida.

One change that would occur as a result of this repeal would be that the supermajority four-fifths vote for re-zoning petitions would no longer be a statutory law. It will, however, remain a requirement of the Collier County Land Development Code.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that chapters 67-1246 and 69-964, Laws of Florida, are repealed.

Section 2: Provides that this act shall take effect upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 21, 2000

WHERE? Naples Daily News

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Through the repeal of the existing special acts, the power for rule-making authority emanates from home rule powers and general law.

C. OTHER COMMENTS:

The repeal of the special acts relating to comprehensive planning regulation is part of the Collier County Board of County Commissioners Legislative Agenda which was approved by the Commission on October 26, 1999. As described by the Executive Summary:

The Special Act 67-1246 for Collier County adopted in 1967, duplicates today's statutory regulations and requirements for counties and municipalities with respect to mandatory growth management plans and handicaps the "inherent home rule powers" that Collier County (along with all other Counties and municipalities in the State) has with respect to zoning, land subdivision, planning, and enforcement matters. As an example, one change that would occur as a result of this repeal would be the fact that the super majority four-fifths (4/5's) vote for rezone petitions would no longer be a statutory law; however, it will remain a requirement for the Collier County Land Development Code.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Kyle V. Mitchell

Joan Highsmith-Smith