

**STORAGE NAME:** h1795.ca

**DATE:** April 6, 2000

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

**BILL #:** HB 1795

**RELATING TO:** Palm Beach Co./Boca Raton

**SPONSOR(S):** Representative Jacobs

**TIED BILL(S):** None

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

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

**I. SUMMARY:**

This bill entitles the Blue Lake Development of Regional Impact to an exception from state, regional and local concurrency requirements for transportation facilities, notwithstanding any other provisions of law to the contrary. This exception is to be made by the Secretary of the Department of Community Affairs (DCA) upon a determination that certain criteria has been met. The Secretary's decision is appealable to the Florida Land and Water Adjudicatory Commission (FLAWAC).

**This bill provides an exception to general law for the Blue Lake Development of Regional Impact. House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill." It appears as though this bill may violate House Rule 44(b).**

**House Rule 44(a), provides that "If a committee determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, that committee shall not report the bill to the Clerk. However, if a local governing body would be required to call a referendum to enact the substance of a local bill into law, the committee may report the local bill."**

**This bill appears to violate House Rule 44(a) because it appears as though the substance of this bill may be accomplished at the local level. Under the transportation concurrency section of the law, local governments may grant an exception from the concurrency requirement for transportation facilities under specific conditions. No referendum is required. The City of Boca Raton has already denied Blue Lake an exception to transportation concurrency under this statute.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

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. The "cornerstone" of the concurrency requirement is the concept that development should be coordinated with capital improvements planning to ensure that the necessary public facilities are available with, or within a reasonable time of, the impacts of new development. Under the requirements for local comprehensive plans, each local government must adopt levels of service (LOS) standards for certain types of public services and facilities. See s. 163.3180, Florida Statutes. Generally, these LOS standards apply to sanitary sewer, solid waste, drainage, potable water, parks and recreation, roads and mass transit. Pursuant to s. 163.3180(2)(c), Florida Statutes, the local government must ensure that transportation facilities needed to serve new development are in place or under actual construction within three years after issuance of the certificate of occupancy. The intent is to keep new development from significantly reducing the adopted LOS by increasing the capacity of the infrastructure to meet the demands of new development.

In 1995, the Legislature provided exemptions to transportation concurrency requirements for local governments if such requirements discourage urban infill development, redevelopment, or downtown revitalization. In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan.

Blue Lake Development of Regional Impact (Blue Lake DRI)

Blue Lake Development of Regional Impact is an approved development of regional impact that is required to meet concurrency requirements of the local comprehensive plan and to mitigate its impacts on transportation facilities through the Development of Regional Impact review process.

The Blue Lake DRI was approved by the City of Boca Raton for the redevelopment and expansion of the IBM facility at the Blue Lake Corporate Center. Blue Lake is expected to provide employment for approximately 20,000 persons. This redevelopment is needed due

to the economic loss caused by the departure of 10,000 IBM employees. This development abuts the Tri-County Commuter Rail Line and the Palm Beach County's bus routes. In addition, the DRI is adjacent to Florida Atlantic University, Lynn University, and other large employment and residential areas.

The City of Boca Raton has denied Blue Lake DRI an exception to transportation concurrency.

### **Sustainable Communities Demonstration Project**

The Governor's Commission for a Sustainable South Florida was created by Executive Order 94-54 to make recommendations for achieving a healthy Everglades ecosystem that can coexist and be mutually supportive of a sustainable South Florida economy and quality communities. The October 1, 1995, Initial Report of the Commission makes numerous recommendations concerning the following issues: (1) managing water; (2) prevention of pollution; (3) combating the spread of exotic species; (4) transforming urban sprawl into quality development patterns; (5) increasing high-wage employment; (6) improving quality of life; (7) creating intergovernmental coordination and partnerships; and (8) improving scientific understanding and information coordination. Although not part of the Initial Report, the Commission also adopted the concept of a demonstration project to be conducted by the DCA to "test" some of the recommendations of the Commission in the local comprehensive plans of the South Florida area.

Section 163.3244, F.S., provides for the sustainable communities demonstration project. Under this project, up to five local governments may be designated as a sustainable community, but that at least three must be located totally or in part within the boundaries of the South Florida Water Management District.

To participate in the program, a city or county applies to the DCA in writing. The local government designated must have a local plan and LDRs that promote infill development and redevelopment; have an established urban development boundary; assure protection of key natural areas and agricultural lands; and ensure cost-efficient provision of public infrastructure and services.

The Secretary of the DCA designates a local government as a sustainable community by written agreement. Once designated, a local government has the following benefits: (1) all map and text amendments shall be reviewed in the same manner as small-scale amendments without limitation as to their type, frequency, magnitude, character, or location, with exception of those that expand the urban development boundary or are in the coastal high hazard area; and (2) developments, except those outside the urban development boundary or in the coastal high hazard area, shall be exempt from DRI review.

Once designated, a sustainable community must submit a progress report to the DCA and the Florida Advisory Council on Intergovernmental Relations each year on the anniversary date of the designation that identifies plan amendments approved during the year; updates the future land use map; and advises whether or not the local government continues to comply with the agreement establishing the sustainable community designation.

This program provides that a designation under this section shall be for 5 years and may be renewed. In addition, the program also provides that this section shall be repealed on June 30, 2001.

The Blue Lake property is within the Eastward Ho initiative area which is part of the sustainable demonstration project, and the City of Boca Raton is one of the five demonstration sustainable communities under an agreement with DCA. This agreement provides that the City will emphasize the creation of jobs, including those at the Blue Lake project, and will encourage development in proximity to mass transit.

**C. EFFECT OF PROPOSED CHANGES:**

The bill exempts Blue Lake development from the transportation concurrency requirements of general law and local government comprehensive plans and land development regulations. It is not clear how this effects existing requirements of the Blue Lake Development Order.

By allowing Blue Lake an exception to transportation concurrency, this bill allows the Blue Lake Development of Regional Impact to be released from mitigating its transportation impacts. Under Chapter 380.06, F.S., impacts to transportation facilities must be mitigated if the development impacts regional roadways in a manner that reduces the Level of Service below the Level of Service Standard adopted by the local government. Maintaining the adopted Level of Service Standard constitutes concurrency. This bill releases Blue Lake development from concurrency and therefore by extension releases Blue Lake from mitigating its transportation impacts.

The bill by-passes any input from the local government regarding local transportation concerns or conditions that should be addressed. Boca Raton is a sustainable community in which DCA has, through agreement, removed itself from the comprehensive plan review. Additionally, this bill takes decision-making authority away from the local government and puts it with the Secretary of DCA. Certain conditions are set out in the bill that the DCA Secretary must determine have been satisfied. Some of those are: instituting variable work hours, ride sharing, coordination with public rail and bus, and shared access points to the roadway, which are usually determined by the local government.

This bill provides an exception to general law for the Blue Lake Development of Regional Impact. This bill appears to violate House Rules 44(a) and (b). House Rule 44(b) provides that "If a committee determines that a local bill provides only an exemption from general law, it shall be reintroduced as a general bill." It appears as though this bill may violate House Rule 44(b).

House Rule 44(a), provides that "If a committee determines that the substance of a local bill may be enacted into law by ordinance of a local governing body, that committee shall not report the bill to the Clerk. However, if a local governing body would be required to call a referendum to enact the substance of a local bill into law, the committee may report the local bill." This bill appears to violate House Rule 44(a) because it appears as though the substance of this bill may be done at the local level. Under the transportation concurrency section of the law, local governments may grant an exception from the concurrency requirement for transportation facilities under specific conditions. No referendum is required. The City of Boca Raton has already denied Blue Lake an exception to transportation concurrency under this statute.

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D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides legislative findings.

Section 2. Grants the Blue Lake DRI an exception from state, regional, and local concurrency requirements for transportation facilities, notwithstanding any other provision of law to the contrary, upon a determination by the DCA Secretary that specific criteria has been met; describes specific criteria; provides that contracts for improvements for a particular phase be let prior to the building permit issuance for that phase development; requires improvements to be completed prior to issuance of certificate of occupancy; exempts the Blue Lake DRI from transportation concurrency on all other roadways and links; allows the DCA Secretary to enter into an agreement to assure criteria satisfaction; allows the applicant to appeal the determinations of the Secretary to the Florida Land and Water Adjudicatory Commission; provides that a final determination binds all affected governments and constitutes an amendment to all applicable development orders and agreements; and provides that no comp plan amendments, rules, regulations, or ordinances are necessary to effectuate the final determination.

Section 3: Provides an effective date of upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No [ ]

IF YES, WHEN? February 8, 2000

WHERE? Boca Raton News; Palm Beach County

B. REFERENDUM(S) REQUIRED? Yes [ ] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No [ ]

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No [ ]

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

**C. OTHER COMMENTS:**

The City of Boca Raton's City Council voted 3-2 on whether the Blue Lake DRI should be granted an exemption from the transportation concurrency requirements under chapter 163, F.S. Although the vote was in favor of the exemption, the exemption required a supermajority vote of four council members to pass. This exemption is critical as it is estimated that the road-improvement costs are approximately \$8 million. On January 28, 2000, the Blue Lake Corporate Center filed two lawsuits against the city in an attempt to override the council's decision.

According to a letter by Leif Ahnell, the City Manager for Boca Raton, the Boca Raton City Council opposes the adoption of this bill or any other legislation in any form that would alter the requirements of the Blue Lake Development Order. The City feels that the Blue Lake Development Order will have a significant impact on the City and Palm Beach County. It is the opinion of the City Council that any decisions involving the Blue Lake Development are best made at the City and County level where the traffic and financial impacts will be most felt. A copy of this letter and its attachments are available upon request at the House Committee on Community Affairs Offices.

According to the Bill's Economic Impact Statement, this bill allows the Blue Lake DRI to be developed with an estimated yearly state and local tax yield at buildout of \$167 million. In addition, the Blue Lake DRI is estimated to generate: yearly wages associated with project construction of \$338 million; yearly wages for employees at buildout of \$963 million; goods and services during construction of \$670 million; and goods and services yearly at buildout of \$2.7 billion.

On Tuesday March 14, 2000 the voters of Boca Raton approved a referendum that authorizes the City to issue up to \$30 million in bonds to buy a 164 acre parcel in the southern portion of the Blue Lake development. The Developers have not stated if they are willing to sell or not. The idea was proposed by the City as a way to buy the development rights and remove traffic from the City's streets.

Bill Concerns

The bill conflicts with all of the provisions in Chapters 163 and 380, F.S., and Rules 9J-2 & 9J-5, F.A.C., which require developments generally and developments of regional impact, in particular, to mitigate transportation impacts. Because it is crafted as an exception, however, it does not technically conflict with any of these concurrency and mitigation provisions.

There also appears to be a conflict with Section 163.3194(1)(a), F.S., which requires that all development must be consistent with the adopted comprehensive plan, and Sections 380.06 & 380.11, F.S., which require developments of regional impact to proceed only in accordance with the adopted development order. The bill expressly contemplates any approval granted by the Secretary of the Department of Community Affairs or the Florida Land and Water Adjudicatory Commission will not require amendment of the local comprehensive plan or development order. It is highly likely that any development flowing from such an approval would in fact be inconsistent with the local comprehensive plan and development order.

This bill may burden the state for costs of transportation improvements not listed and needed for the development on state and regional roadways. There may be needed

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improvements to I-95. In addition, the bill may burden local governments for costs of transportation improvements not listed that are needed for the development.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

There is a substantive strike-everything amendment that makes technical changes and clarifies and describes what roadways and intersection improvements “that must be assured prior to the commencement of development in the specific phases.” In addition, the amendment requires Blue Lake DRI to provide necessary right-of-ways from the project and allows the DCA Secretary to determine whether there is still a need for a particular requirement under certain conditions. This amendment was approved by the delegation on March 17, 2000.

VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

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Laura L. Jacobs

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Joan Highsmith-Smith