

STORAGE NAME: h0693.ca

DATE: March 10, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 693

RELATING TO: Growth-Management Advisory Committee

SPONSOR(S): Representative Merchant and other

TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC)
 - (2) ENVIRONMENTAL PROTECTION (RLC)
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
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I. SUMMARY:

This bill creates the Growth-Management Advisory Committee, a 20-member committee appointed to review Florida's system of growth management and make specific recommendations to the Legislature and the Governor regarding improving the State's system for managing growth by January 15, 2001.

The bill appropriates \$250,000 of general revenue to the Department of Community Affairs (DCA) to administer the commission.

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:

Florida has a system of growth management that includes: the Local Government Comprehensive Planning and Land Development Regulation Act of 1985 (ss. 163.3161-163.3244, F.S.); Land and Water Management, which includes the Development of Regional Impact and Areas of Critical State Concern programs (chapter 380, F.S.); regional planning councils and state and regional plans (chapter 186, F.S.); and the State Comprehensive Plan (chapter 187, F.S.).

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ("Act") establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the Department of Community Affairs (DCA) was required to adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. Such minimum criteria must require that the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental coordination; and that the elements identify procedures for evaluating the implementation of the plan. The original minimum criteria rule for reviewing local comprehensive plans and plan amendments was adopted by DCA on March 6, 1986 as Rule 9J-5, Florida Administrative Code, (F.A.C.).

Chapter 380, F.S., includes the Development of Regional Impact (DRI) program, enacted as part of the Florida Environmental Land and Water Management Act of 1972. The DRI Program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Rule 28-24, F.A.C.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a substantial likelihood of additional regional impact, or any type of regional impact

constitutes a “substantial deviation” which requires further DRI review and requires a new or amended local development order. The statute sets out criteria for determining when certain changes are to be considered substantial deviations without need for a hearing, and provides that all such changes are considered cumulatively.

Chapter 186, F.S., provides for the creation of 11 regional planning councils (RPCs) and for the adoption of strategic regional policy plans by the RPCs. These strategic regional policy plans must be consistent with the state comprehensive plan.

The state comprehensive plan, codified as chapter 187, F.S., was enacted in 1985, to provide long-range guidance for the orderly, social, economic, and physical growth of the state. The plan includes twenty-six goals covering subjects that include: for example, land use; urban and downtown revitalization; public facilities; transportation; water resources; and natural systems and recreational lands. By October 1st of each odd-numbered year, the Governor’s Office is required to prepare any proposed revisions to the state comprehensive plan deemed necessary and present proposed revisions to the Administration Commission. The Administration Commission is then required to review such recommendations and forward to the Legislature any proposed amendments approved by the Commission.

Chapter 98-176, Laws of Florida, required the Governor to appoint a committee to review the comprehensive plan and advise him on changes that were appropriate to include in the biannual review scheduled to occur in 1999. To date, this committee has not been appointed or convened by the Governor.

Over the years, a number of blue-ribbon study commissions have examined problems associated with growth management in Florida. In 1972, the Florida Legislature, pursuant to s. 380.09(5), F.S. (1972), created the Florida Environmental Land Management Study Committee, which issued a final report in 1973. Included in its recommendations was a proposal that the Legislature should adopt a “Local Government Comprehensive Planning Act of 1974,” requiring each county and local government to adopt a local government comprehensive plan. In 1982, Governor Graham created, by executive order 82-95, the Second Environmental Land Management Study Committee (ELMS II). The ELMS II Committee issued its final report in February 1984 which recommended the adoption of state and regional comprehensive plans and the requirement that local plans must be consistent with these state and regional plans. Many of the recommendations of the ELMS II Committee were enacted into law as part of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985.

In 1991, Governor Chiles created by Executive Order 91-291, the third Environmental Land Management Study Committee (ELMS III). The ELMS III Committee issued a final report in December 1992 which recommended a number of adjustments to the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Some of these recommendations included: improving the intergovernmental coordination element of local comprehensive plans as part of eliminating the Development of Regional Impact (DRI) process; the adoption by the state of a strategic growth and development plan; and adjustments to the review process for local comprehensive plan amendments.

C. EFFECT OF PROPOSED CHANGES:

This bill creates the Growth-Management Advisory Committee, a 20-member committee appointed to review Florida's system of growth management and make specific recommendations to the Legislature and the Governor regarding improving the State's system for managing growth by January 15, 2001. The committee is in existence until its objectives are achieved, but no later than January 31, 2001.

The committee is to be composed of 20 members, 10 appointed by the Governor, 5 by the Speaker of the House, and 5 by the Senate President. The appointments must consist of persons from the public and private sectors and include individuals from the agriculture, business, development, environmental, real estate and planning communities. The appointments must be made by July 15, 2000.

The Secretary of DCA is designated chair of the committee. At least three public hearings will be held by the committee in different regions of the state to solicit public input. Action of the commission is not binding unless a majority of the total number of votes cast are in favor of the action. However, a quorum (majority of members) must be present in order for the commission to take formal action.

The bill identifies the following issues as appropriate issues for the commission to evaluate in making its recommendations:

- The roles and adequacy of the State Comprehensive Plan
- Adequacy of provisions related to the enforcement of local comprehensive plans
- The funding of public infrastructure
- The appropriate role of the development-of-regional-impact process and local government comprehensive planning
- The role and character of regional units of government and metropolitan planning organizations and their relationships to state and local government
- Assuring concurrency in an efficient, predictable and reasonable manner
- The content requirements for Evaluation and Appraisal Reports and recommended procedures for their review by the DCA
- Reviewing the effectiveness of state pilot projects such as the Sustainable Communities Program, Sector Planning, and Small-Scale Amendments
- Challenges to local-government comprehensive plan development orders, land development regulations, and local plan amendments
- State review and approval of local-government comprehensive plan amendments
- The participation of citizens in the growth management system
- The role of the Governor and Cabinet

DCA is authorized to employ an executive director, staff and consultants to assist the committee. The department shall reimburse commission members, and the members of any technical advisory committee that is appointed for travel and per diem expenses.

The bill also provides for a \$250,000 appropriation from general revenue to DCA to administer the commission.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Creates the Growth-Management Advisory Committee; provides for a 20-member committee; provides for member appointments as follows: 10 appointed by the Governor, 5 by the Speaker of the House, and 5 by the Senate President; requires the appointments to consist of persons from the public and private sectors and include individuals from the agriculture, business, development, environmental, real estate and planning communities, and local governments; requires the appointments be made by July 15, 2000; designates the Secretary of DCA as chair of the committee; provides that vacancies are filled in the same manner as original appointment; provides that members are entitled to one vote; provides that action of the commission is not binding unless a majority of the total number of votes cast are in favor of the action; provides that a quorum is a majority of members; requires that a quorum be present in order for the commission to take formal action; requires the committee to review Florida's system of growth management and make specific recommendations to the Legislature and the Governor regarding improving the State's system for managing growth; provides recommended issues to be studied by the committee; requires at least three public hearings to be held in different regions of the state to solicit public input; requires the committee to provide a written report by January 15, 2001; provides for reimbursement or per diem expenses; provides for reimbursement of public officials and employees; authorizes the employment of an executive director; requires DCA to provide staff and consultants to assist the committee; states that funding for these expenses (executive director and other staff) is provided through DCA; provides that DCA shall receive funding and other assistance from other agencies; directs the assistance and cooperation of other agencies; and provides that the committee is in existence until its objectives are achieved, but no later than January 31, 2001.

Section 2: Appropriates \$250,000 of general revenue to DCA to administer the commission.

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

There is a one time appropriation of \$250,000 from the general revenue fund to the Department of Community Affairs (DCA) to implement the provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

Local governments may be required to expend money if one of its public officials or employees is appointed to the committee.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

DCA estimates that the \$250,000 appropriation be spent in the following manner:

Other Personal Services

Executive Director	\$ 67,667
Consultants	<u>\$ 20,000</u>
Total OPS	\$ 87,667

Expenses

Office Expense Support	\$ 10,500
Committee Member Travel	\$108,000
DCA Staff Travel	\$ 16,200
Meeting Space Rental	\$ 12,000
Printing & Copying	\$ 15,633
Total Expenses	\$162,333

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise the revenue in the aggregate.

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

The bill does not reduce the tax authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

An amendment is being offered by Representative Merchant which conforms this bill to its Senate companion, CS/SB 758 by Senator Lee. The strike-everything amendment provides for the creation of the *Grow Smart Florida Study Commission*, a 25-member committee appointed to review Florida's system of growth management and make recommendations to the Governor, President of the Senate and Speaker of the House by February 1, 2001. The commission shall continue in existence until its objectives are achieved, but no later than February 1, 2001.

The commission is to be composed of 25 members including 10 members appointed by the Governor, 7 members appointed by the Senate President, 7 members appointed by the Speaker of the House, and the Secretary of DCA. In addition, the Secretaries of the Departments of Environmental Protection & Transportation and the Executive Director of the Fish & Wildlife Conservation Commission are to serve on the commission as ex-officio nonvoting members.

The bill creates five specific groupings of interests to be represented in the appointments of the Governor, Senate President and Speaker of the House: (1) Business interests: for example, development; agricultural; real estate and forestry/silviculture; (2) Environmental interests: for example, environmental justice groups; resource-based conservation groups, and environmental quality and conservation groups; (3) Community participants: for example, citizen groups; not-for-profit community associations; citizen planners; (4) Local and regional governments: for example, municipalities; counties; special districts; metropolitan planning organizations; and regional planning councils; (5) Growth management and planning specialists: for example, professional planners; attorneys; engineers; and architects. The Governor makes two appointments from each group and the Senate President and Speaker of the House select one appointment from each group, in addition to selecting two members from their respective membership. The appointments must be made by July 1, 2000.

The chair of the commission must be elected at the first meeting, required to be held by August 1, 2000, by a majority vote of the membership. At least six public hearings will be held by the committee in different regions of the state to solicit public input. Action of the commission is not binding unless taken by a two-thirds vote of the members present. However, a quorum must be present in order for the commission to take formal action.

In addition to the issues identified above in HB 693, the amendment identifies the additional following issues as appropriate issues for the commission to evaluate in making its recommendations (Note: Some of these issues are revised issues):

- The goals and desired outcomes of state, regional and local comprehensive planning
- Identification of compelling state interests as part of the State Comprehensive Plan
- The enforcement of local plan provisions (revised issue)
- The appropriate relationship between infrastructure funding and comprehensive planning (revised issue)
- Methods of accomplishing intergovernmental coordination
- The relationship between local government comprehensive plans, annexations, and joint planning agreements between cities and counties
- Citizen participation and challenges to local-government comprehensive plans, plan amendments, development orders, and land development regulations (combination of two issues)
- The process of appealing development order and comprehensive plan amendment decisions, including the appropriate role of the Governor and Cabinet (includes additional issue)
- Development of a growth management rural policy

An executive director is to be selected by the Governor, subject to the approval of the commission. In addition, DCA is directed to provide other consultants and staff as needed. The Governor's agencies are directed to assist and cooperate with the commission. The department shall reimburse commission members, and the members of any technical advisory committee that is appointed for travel and per diem expenses. Finally, the amendment appropriates \$250,000 from the general revenue fund to DCA.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Laura L. Jacobs, Esq.

Joan Highsmith-Smith