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HOUSE OF REPRESENTATIVES
AS REVISED BY THE
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS

BILL #: HB 1929 (PCB LGVA 01-02)

RELATING TO: Growth Management

SPONSOR(S): Committee on Local Government & Veterans Affairs and Representative Sorensen

TIED BILL(S): None

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

(1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 9 NAYS 0
(2) COUNCIL FOR COMPETITIVE COMMERCE
(3) FISCAL POLICY COUNCIL
(4)
(5)

I. SUMMARY:

This bill revises statutes relating to growth management.

This bill addresses the following six issues:

- Department of Community Affairs oversight and comprehensive planning process.
- Citizen Access.
- Developments-of-Regional Impact Process Revision.
- Rural Issues.
- Urban Issues.
- Infrastructure Funding Options.

There are fiscal impacts on the General Revenue Fund beginning in 2003. Local government revenues of small counties may realize increased revenues, if approved by voters. Municipalities that are located within a county that does not levy the maximum rate of local government infrastructure surtax may realize increased revenues if approved by voters.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [X]	No []	N/A []
2.	Lower Taxes	Yes []	No [X]	N/A []
3.	Individual Freedom	Yes []	No []	N/A [X]
4.	Personal Responsibility	Yes []	No []	N/A [X]
5.	Family Empowerment	Yes []	No []	N/A [X]

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

2. Section 16 of this bill amends section 212.055, F.S, to allow a county that is levying a local option small county surtax and a local option infrastructure surtax, to have a combined rate of 1.5 percent. This bill limits the ability of a small county that wants to levy additional local option small county surtax to the increased 1.5 percent combined rate as it requires the surtax to be approved at referendum. If a small county wants to levy 0.5 percent of the local option infrastructure surtax, the local government is still required to receive approval at referendum.

Thirty-one counties fall within the definition of small county, which is a county having a total population of 50,000 or less on April 1, 1992. As of September 29, 2000, 12 of the 31 counties (DeSoto, Dixie, Flagler, Glades, Hamilton, Hendry, Jefferson, Lafayette, Madison, Suwannee, Taylor, and Wakulla) levied the local government infrastructure surtax at 1 percent. Because of the current 1 percent maximum cap, only 19 counties were eligible to levy the small county surtax. All but two of those counties, levy at the maximum rate of 1 percent. Those counties are: Baker, Bradford, Calhoun, Columbia, Gadsden, Gilchrist, Hardee, Holmes, Jackson, Levy, Liberty, Nassau, Okeechobee, Sumter, Union, Walton, and Washington.

Section 16 of this bill also has the ability to increase taxes. Municipalities are authorized to levy a local option infrastructure surtax, which must receive referendum approval, in the amount of 0.5 percent. The municipality does not have this authority if the county it is in is levying a local option infrastructure surtax in excess of 0.5 percent. If a county decides to levy the surtax after the municipality levies 0.5 percent, then the county may only levy 0.5 percent.

Twenty-seven counties currently levy the local option infrastructure surtax. Two of those counties, Bay and Hillsborough Counties, only levy 0.5 percent of the surtax. The counties that currently levy 1 percent of the surtax are: Charlotte, Clay, DeSoto, Dixie, Escambia, Flagler, Glades, Hamilton, Hendry, Highlands, Indian River, Jefferson, Lafayette, Lake, Leon, Madison, Martin, Monroe, Osceola, Pinellas, Sarasota, Seminole, Suwannee, Taylor, and Wakulla. Municipalities located within any county not listed above may levy 1 percent of the local option infrastructure surtax, after approval at referendum. Municipalities within Bay and Hillsborough Counties may levy 0.5 percent of the surtax.

B. PRESENT SITUATION:

Florida has a system of laws that govern growth management that include:

- the Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ss. 163.3161-163.3244, F.S.;

- Chapter 380, F.S., Land and Water Management, which includes the Development of Regional Impact and Areas of Critical State Concern programs;
- Chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and
- Chapter 187, F.S., the State Comprehensive Plan.

Local Comprehensive Plan

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ("Act") ss. 163.3161-163.3244, Florida Statutes, (F.S.), 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. The plans must contain data, analyses, policies, goals, and objectives relating to eight mandatory elements on the following issues: Capital improvements; Future land use; Traffic Circulation; General sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; Conservation; Recreation and open space; Housing; and Intergovernmental coordination. The capital improvements element must consider the need for, and the location of, public facilities. Further, general law requires that comprehensive plans of coastal local governments contain a coastal 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 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. This 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 the department on March 6, 1986 as Rule 9J-5, Florida Administrative Code, (F.A.C.). In 1999, the department reviewed 12,000 local comprehensive plan amendments.

After a comprehensive plan has been adopted, subsequent changes are made through amendments to the plans. There are generally two types of amendments: 1) amendments to the future land use map that change the land use category designation of a particular parcel of property or area; and 2) text amendments that change the goals, objectives or policies of a particular element of the plan. In addition, every seven years a local government must adopt an evaluation and appraisal report (EAR) assessing the progress of the local government in implementing its comprehensive plan. The local government is required, pursuant to s. 163.3191(10), F.S., to amend its comprehensive plan based on the recommendations in the report.

Comprehensive Plan Amendment Process

Under Chapter 163, F.S., the process for the adoption of a comprehensive plan and comprehensive plan amendments is essentially the same. A local government or property owner initiates the process by proposing an amendment to the designated local planning agency (LPA). After holding at least one public hearing, the LPA makes recommendations to the governing body regarding the amendments. The governing body then holds a transmittal public hearing at which the proposed amendment must be voted on affirmatively by a majority of the members of the governing body of the local government. Following the public hearing, the local government must "transmit" the amendment to the department, the appropriate regional planning council and water management

district, the Department of Environmental Protection (DEP), the Florida Department of Transportation (FDOT) and any other local government or state agency that has requested a copy of the amendment.

Next, the decision is made whether or not to review the proposed amendment. If the local government does not request a review, the department requests that the appropriate water management district, FDOT and the DEP advise the department as to whether or not the amendment should be reviewed within 21 days after transmittal of the amendment by the local government. Based on this information, the department decides whether to review the amendment. The department must review the proposed amendment within 30 days after transmittal of the amendment if the local government transmitting the amendment, a regional planning council or an "affected person" requests review. Finally, even if a request by one of the above parties is not made, the department may elect to review the amendment by giving the local government notice of its intention to review the amendment within 30 days after receipt of the amendment.

If review is not requested by the local government, the regional planning council, or any affected person, and the department decides not to review it, the local government is notified that it may proceed immediately to adopt the amendment. If, however, review of the amendment is initiated, the department next transmits, pursuant to Rule 9J-1.009, F.A.C., a copy of the amendment to: the Department of State; the Fish & Wildlife Conservation Commission (FWCC); the Department of Agriculture and Consumer Affairs, Division of Forestry for county amendments; and the appropriate land planning agency. In addition, the department may circulate a copy of the amendment to other government agencies, as appropriate. Commenting agencies have 30 days from receipt of the proposed amendment to provide written comments to the department. In addition, written comments submitted by the public within 30 days after notice of transmittal by the local government are considered by the department as if they were submitted by governmental agencies.

Upon receipt of the comments described above, the department has 30 days to send its Objections, Recommendations and Comments report to the local government body (commonly referred to as the "ORC Report"). In its review, the department considers whether the amendment is consistent with the requirements of the Act, Rule 9J-5, F.A.C., the State Comprehensive Plan, and the appropriate regional policy plan. In addition, the ORC makes recommendations to the local government on ways to bring the plan or plan amendment(s) into compliance.

After receiving the ORC report from the department, the local government has 60 days (120 days for amendments based on Evaluation and Appraisal "EAR" Reports or compliance agreements) to adopt the amendment, adopt the amendment with changes, or decide that it will not adopt the amendment. The decision must be made at a public hearing. Within 10 days after adoption, the local government transmits the adopted plan amendment to the department, the commenting agencies, the regional planning council and anyone else who has requested notice of the adoption.

Upon receipt of a local government's adopted comprehensive plan amendment, the department has 45 days (30 days for amendments based on compliance agreements) to determine whether the plan or plan amendment is in compliance with the Local Government Comprehensive Planning and Land Development Regulation Act. This compliance determination is also required when the department has not reviewed the amendment under s. 163.3184(6), F.S. During this time period, the department issues a notice of intent to find the plan amendment in compliance or not in compliance with the requirements of the Act. The notice of intent is mailed to the local government and the department is required to publish the notice of intent in a newspaper that has been designated by the local government.

If the department finds the comprehensive plan amendment in compliance with the Act, any affected person may file a petition for administrative hearing pursuant to ss. 120.569 and 120.57,

F.S., within 21 days after publication of the notice of intent. An administrative hearing is conducted by the Division of Administrative Hearings where the legal standard of review is that the plan amendment will be determined to be in compliance if the local government's determination of compliance is fairly debatable. The hearing officer submits a recommended order to the department. If the department determines that the plan amendment is in compliance, it issues a final order. If the department determines that the amendment is not in compliance, it submits the recommended order to the Administration Commission (the Governor and Cabinet) for final agency action.

If the department issues a notice of intent to find the comprehensive plan amendment not in compliance, the notice of intent is forwarded directly to the Division of Administrative Hearings in order to hold a ss. 120.569 and 120.57, F.S., administrative proceeding. The parties to the administrative proceeding include: the department; the affected local government; and any affected person who intervenes. In the administrative hearing, the decision of the local government of the comprehensive plan amendment's compliance is presumed to be correct and must be sustained unless it is shown by a preponderance of the evidence that the comprehensive plan amendment is not in compliance.

The administrative law judge submits his decision directly to the Administration Commission for final agency action. If the Administration Commission determines that the plan amendment is not in compliance with the Act, it must specify remedial actions to bring the plan amendment into compliance.

Local governments are limited in the number of times per year they may adopt comprehensive plan amendments. Section 163.3187, F.S., provides that local government comprehensive plan amendments may only be made twice in a calendar year unless the amendment falls under specific statutory exceptions which include, for example: amendments directly related to developments of regional impact; small scale development amendments; the designation of an urban infill and redevelopment area; and changes to the schedule of the capital improvements element.

Small-Scale Development Amendments

Section 163.3187, Florida Statutes, places a twice a year limit on the ability of a local government to amend to its plan. However, this section also contains several exceptions to the twice a year limit. The twice a year limit does not apply to the following amendment categories: Emergencies (as defined in this section); Amendments directly related to a proposed development of regional impact (DRI) or a Florida Quality Development; Amendments directly related to a substantial deviation to a development of regional impact or Florida Quality Development; Small scale amendments (as defined in this section); Amendments required by compliance agreements; and Amendments to locate a state correctional facility.

The first major exception applies to a category of comprehensive plan amendments designated by a local government as small-scale amendments. A small-scale development amendment is defined by s. 163.3187(1)(c), F.S., as a proposed amendment involving a use of 10 acres or less and where the cumulative acreage proposed for small-scale amendments within a year must not exceed:

a) 120 acres in a local government that contains areas designated in its comprehensive plan for urban infill, urban redevelopment or downtown revitalization, transportation concurrency exception areas, or regional activity centers and urban central business districts approved pursuant to s. 380.06(2)(e), F.S.;
b) 80 acres in a local government that does not include the designated areas described in (a); and
c) 120 acres in consolidated Jacksonville/Duval County.

In addition to the above acreage limitations, amendments involving a residential land use must have a density of 10 units per acre or less unless located in an urban infill and redevelopment area.

The major advantage of a small-scale amendment is that the adoption of the amendment by the local government only requires one public hearing before the governing board, and does not require compliance review by the department. The public notice procedure for local governments is also more streamlined so that the notice required by a local government for small scale amendments is that of a general newspaper notice of the meeting and notice by mail to each real property owner whose land would be redesignated by the proposed amendment.

While the department does not review or issue a notice of intent regarding the proposed amendment, small-scale amendments can be challenged by affected persons. Any affected person may file a petition for administrative hearing to challenge the compliance of the small-scale development amendment with the Act, within 30 days of the local government's adoption of the amendment. The administrative hearing must be held not less than 30 nor more than 60 days following the filing of the petition and the assignment of the administrative law judge. The parties to the proceeding are the petitioner, the local government, and any intervenor.

The local government's determination that the small-scale development agreement is in compliance is presumed to be correct and will be sustained unless, by a preponderance of the evidence, the petitioner shows that the amendment is not in compliance with the Act. Small-scale amendments do not become effective until 31 days after adoption by a local government. If a small-scale amendment is challenged following the procedure described above, the amendments do not become effective until a final order is issued finding the amendment in compliance with the Act.

Currently, s. 163.3187(1)(c)1.e, F.S., prohibits small-scale amendments in Areas of Critical State Concern (ACSC). Through this process, the department can ensure they are reviewed for consistency with the principles for guiding development. However, in 2000, the Legislature revised the statute to allow local governments within Monroe County to use the small scale amendment process for comprehensive plan amendments that involve the construction of affordable housing that meet the criteria in s. 420.0004(3), F.S. These amendments are exempt from compliance review under Chapter 163, F.S. However, DCA still reviews the amendments for consistency with the principles for guiding development applicable to that area and the amendment does not become effective until DCA issues a final order under s. 380.05(6), F.S.

Evaluation and Appraisal Reports (EARs)

Section 163.3191, F.S., 1996 Supplement, requires that, no later than seven years after a local government has adopted its plan, each local government must prepare an Evaluation and Appraisal Report (EAR). The EAR assesses the plan for the following:

- The need to be updated to reflect changes in state policy on planning and growth management;
- The success and failure of the plan;
- The major problems of development; physical deterioration, and the location of land uses and the social and economic effects of such uses in the area;
- The condition of each element in the comprehensive plan at the time of adoption and at the time of the report;
- The effect on the plan due to changes to: the state comprehensive plan, the requirements of this part, the minimum criteria contained in the rules, and the appropriate strategic regional policy plan;

- A description of the public participation process used by the local government in preparing the report.

In addition to the above, the EAR must include, reformulated objectives, policies, and standards. Pursuant to this section, the Department has adopted a phased schedule for local governments to submit their EARs for review.

The Department is authorized to conduct a sufficiency review of the EAR within 60 days of receipt from a local government. Sufficiency reviews are defined by the statute. In general, a sufficiency review determines whether the required components of the EAR are present; whether the report was timely submitted; and examines whether the EAR provides adequate amounts of information to show what the community was like at the time of the adoption of the plan and what the community is like now. A sufficiency review looks at how the community has changed since the adoption of the plan and determines the adequacy of the plan in dealing with those changes.

When the local government submits recommended amendments to the Department in response to the sufficiency review, the Department then conducts a compliance review of the amendments. A compliance review looks at whether the amendments are consistent with the findings and recommendations of the EAR. If a local government should fail to implement its EAR, general law authorizes the Administration Commission to impose sanctions against them.

The Department may delegate the sufficiency review of EARs to a regional planning council (RPC) by written agreement. If the Department has delegated EAR sufficiency review to a RPC, any local government within the region may choose to have its EAR reviewed by the RPC instead of the Department.

The Act authorizes the Department to allow certain qualified local governments to focus their EAR on a few selected issues or elements. To qualify, a municipality (with fewer than 5,000 residents), or a county (with fewer than 50,000 residents), must request this consideration and enter into an agreement with the Department.

The written agreement must contain the Department's findings that are the basis for the decision. The agreement must list the elements or portions of elements that are to be updated, as well as those elements that are not to be updated. In addition, the local government must agree that within 18 months of termination of the agreement, it will adopt plan amendments updating the portions of the plan that were specifically excluded from the EAR. The local government must approve the agreement after a public hearing. The Department's decision to grant, modify or terminate an agreement is subject to a formal administrative hearing.

The statute lists the following factors for the Department to consider in evaluating a local government's request to limit the EAR review:

- Population growth rate or changes in land area since adoption of the administrative rules implementing the act.
- The extent of vacant and undevelopable land and land vested for development.
- The need for redevelopment.
- The extent to which public services and facilities for residents are supplied by providers other than the local government.
- Past performance in local plan implementation.
- Presence in the jurisdiction of natural resources with state or regional significance as identified in the applicable state or regional plans.
- Infrastructure backlog.

While some elements may be excluded from the review, certain elements are still required to be included. The required elements are land use, intergovernmental coordination, conservation, and capital improvements. In addition, communities that are required to have a coastal element are also required to include their coastal element in their EAR. According to the Department, no small municipality or small county has ever taken advantage of the agreement provided by this subsection.

Concurrency

The concurrency requirement of the Local Government Comprehensive Planning and Land Development Regulation Act (part II, Chapter 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 for, 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 section 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 section 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.

Sustainable Communities Demonstration Project

The Sustainable Communities Demonstration Project was enacted by the 1996 Florida Legislature as ch. 96-416, L.O.F, and can be found in section 163.3244, F.S. Section 163.3244, F. S., authorizes the designation of five local governments to participate in the project. The purpose of the project is to further six principles of sustainability: restoring key ecosystems; achieving a more clean, healthy environment; limiting urban sprawl; protecting wildlife and natural areas; advancing the efficient use of land and other resources; and creating quality communities and jobs.

The designation criteria of the program require that the local government has set an urban development boundary that will: 1) encourage urban infill and discourage sprawl; 2) assure protection of key natural areas and agricultural lands and 3) ensure the cost-efficient provision of public infrastructure and services. In addition, the department was to evaluate the extent to which the local government adopted programs within its comprehensive plan that further certain planning goals such as: promoting urban infill; providing low-income housing; supporting public transit; encouraging mixed-use development and promoting economic diversity while preserving rural areas and protecting the environment.

Communities receiving the sustainable communities designation are granted several types of regulatory relief. First, proposed comprehensive plan amendments within the urban growth boundary are exempt from state and regional review, including DCA's review of such amendments and issuance of objections, recommendations, and comments report or a notice of intent on proposed comprehensive plan amendments. Instead, a local government is able to adopt a proposed comprehensive plan amendment at a single adoption hearing. Affected persons may, however, file a petition for administrative hearing to challenge the compliance of an adopted comprehensive plan amendment using the same procedure employed for challenging small-scale amendments. Any affected person may file a petition for administrative hearing to challenge the

compliance of the amendment with the Local Government Comprehensive Planning and Land Development Regulation Act of 1985, s. 163.3161, et. seq., within 30 days of the local government's adoption of the amendment. The local government's determination that the amendment is in compliance is presumed to be correct and will be sustained unless the petitioner shows by a preponderance of the evidence that the amendment is not in compliance with the act.

Second, developments within the urban growth boundary and outside the coastal high-hazard area could be exempt from Development of Regional Impact (DRI) review to the extent established in a designation agreement. DRI projects and amendments outside of the urban growth boundary and comprehensive plan amendments that would change the adopted urban development boundary, impact lands outside the urban development boundary, or impact lands within the coastal high-hazard area continue to be subject to state and regional review.

The vehicle for designating a sustainable agreement by DCA is a written designation agreement between DCA and the local government. The agreement must include: the basis of the designation, any conditions necessary to comply with s. 163.3244, F.S., procedures for the mitigation of extra jurisdictional impacts from DRIs where DRIs would be abolished or modified, and criteria for evaluating the success of the designation. Affected persons are authorized to petition for administrative review of a local government's compliance with the terms of the designation agreement.

After a competitive application process, DCA chose Boca Raton, Martin County, Ocala, Orlando, and Tampa/Hillsborough County for participation in the program. Designation agreements were negotiated with each of the communities, which identified: planning projects that the local government agreed to undertake; whether the local government is delegated DRI review responsibilities; a list of evaluation indicators; and the responsibilities of DCA. Each of the local governments selected initially received $100,000 to assist in the implementation of the designation agreement. Since then, an additional $150,000 has been distributed between the communities.

The elimination of DCA review of proposed comprehensive plan amendments appears to have been very successful. The department only identified two amendments that they would have objected to if such amendments had been subject to state review. The City of Ocala was the designated community that adopted these amendments, and the background of the challenges is described under the discussion of the Ocala sustainable project.

Because of the reduced state oversight of comprehensive plan amendments, citizen enforcement of compliance with the Act takes on increased significance. In the case of the Ocala amendments, a citizen group came forward to challenge amendments viewed by some as inappropriate. However, the citizen group was deemed to not have adequate standing to challenge the comprehensive amendment in at least one of the cases. Accordingly, if the sustainable communities model is applied to more communities, it may be appropriate to adjust citizen standing requirements.

The second opportunity for designated communities to receive reduced oversight from DCA is in the review of DRIs. Under s. 163.3244(5)(b), F.S., designated communities within the urban growth boundary and outside the coastal high-hazard are exempt from DRI review to the extent established in the designation agreement. While Ocala and Orlando received delegation to review amendments to existing DRIs, Tampa/Hillsborough County were the only communities to receive delegation to review both new DRIs and amendments to existing DRIs. One of the reasons for the success of the DRI delegation in Tampa/Hillsborough is that the communities have experienced staff with the technical expertise necessary to perform the delegated DRI review function.

According to department staff, the DRI delegations have worked well and have not generated concerns over local governments reviewing DRIs inappropriately. In fact, staff of DCA are disappointed that more of the designated communities chose not to seek the DRI review delegation.

As a potential model for growth management reform, the major strength of the Sustainable Communities Demonstration Project is the collaborative and constructive relationship created between DCA and participating local governments.

- State/Local Partnership: Perhaps the major success story of the demonstration project has been improvement in the relationship between DCA and the designated communities. The project allows for the formation of partnerships that create the opportunity for state and local government staff to work together to solve problems and promote positive changes.

- Reduction of State Oversight: One of the major successes of the demonstration project is that the reduction in state oversight of comprehensive plan amendments, DRI projects, and amendments to existing DRIs did not result in decisions by the local governments that DCA would have objected to but for the project. In fact, DCA found that local governments continued to act in a responsible manner in their approach to community planning even though state oversight was removed.

- Negotiated Agreements as a Tool: The designation agreements proved to have a benefit beyond a contractual statement of each party's responsibilities. The agreements enabled the local governments to shift their planning resources from regulatory compliance to results oriented projects. The agreements appeared to lead to a greater commitment from local city and county commissions to follow through on longer-term projects and to give local officials guidance on development proposals that were inconsistent with the designation agreements. Finally, the agreements enabled the creation of a partnership between DCA and the sustainable community that the participants viewed as more constructive than the traditional regulatory oversight role required by chapter 163, F.S.

- Design-Oriented Community Planning: The project encouraged a number of design oriented community planning initiatives such as the Orlando Naval Training Center Urban Design Plan that are being integrated into many local government's approaches to comprehensive planning. For example, while not required by its designation agreement, Hillsborough County is implementing a neighborhood level community planning process. In addition, the Florida Sustainable Communities Network has provided a forum for information sharing and dialogue on better community planning.

- Citizen Participation: Some of designated communities have created citizen participation processes that have resulted in outreach and participation by groups who have not previously participated in the comprehensive planning process and lead to better communication between stakeholder groups.

- Leveraging of Technical Assistance Dollars: The Florida Sustainable Communities Network has provided a very effective means of providing low cost technical assistance and outreach to communities on best planning practices. The major benefit of the Network is that it has allowed all communities and not just designated communities to benefit from the demonstration project. The acquisition of the INDEX community indicator software provides members of the NETWORK with a tool to measure the outcomes of their planning efforts.

- Sustainability as an Organizing Principle: In implementing the demonstration project, DCA declined to define sustainability, but rather, to let each community define sustainability on their own terms. This approach had both advantages and disadvantages. Most communities felt that the lack of a top down definition allowed for experimentation at the local level and, for several communities, provided a framework for stakeholder participation in collaborative planning. The disadvantage of this approach is that it makes it more difficult to assess the effectiveness of the program across communities.

Innovative Planning Issues

In 1992, the Legislature amended s. 163.3177, F.S., by creating a new subsection. This subsection recognized the need for innovative planning and development strategies to address the future demands of urbanization. In addition, innovative planning and development strategies are needed to accommodate the development of less populated regions of the state that need economic development, and which have suitable land and water resources to accommodate growth in an environmentally acceptable manner. The advantages of this approach were recognized as being:

- Better protect environmentally sensitive areas;
- Maintain the economic viability of agricultural and other predominantly rural land uses; and
- Provide the cost-efficient delivery of public facilities and services.

Local government plan amendments that are adopted to achieve an innovative planning process should allow for land use efficiencies within existing urban areas. In addition, innovative planning and development strategies should allow for the conversion of rural lands to other uses when appropriate and consistent with this section and the affected local comprehensive plan. Innovative planning may include: urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development, and sector planning.

In 1995, DCA adopted an amendment to rule 9J-5, F.A.C., to provide for innovative and flexible planning development strategies. It is now recognized that innovative and flexible development strategies are a method of discouraging sprawl. In addition, these strategies are determined to be consistent with the provisions of the state comprehensive plan, regional policy plan, ch. 163, Part II, F.S., and 9J-5, F.A.C., as a means to discourage the proliferation of urban sprawl.

In 1998, s. 163.3245, F.S., created the optional sector plan to further the intent of s. 163.3177, F.S., and support innovative planning and development strategies. The optional sector plan demonstration project is explained below.

Sector Plan Demonstration Project

Sector plans are a demonstration project for property consisting of 5,000 or more acres, which emphasize innovative and flexible planning and development strategies. Currently, the statute allows for five projects. Sector plans, once approved, are adopted as amendments to the local comprehensive plan. This program is scheduled to be repealed in 2001, unless the Legislature amends the statute.

Judicial Review of Development Orders

Section 163.3215, F.S., provides for standing to enforce local comprehensive plans through development orders. In addition, challenging procedures are also provided. Under this section, any

aggrieved or adversely affected party may maintain an action for injunctive or other relief against any local government to prevent that government from taking any action on a development order that is not consistent with the local government's comprehensive plan.

Development orders that are contested by the developer are subject to quasi-judicial proceedings. These local proceedings are formal and often involve liberal participation of aggrieved parties. The developer's appeal right is by certiorari review in circuit court where the court relies solely on the record as it was established at the local quasi-judicial hearing. The court looks at whether procedural due process was met, whether there was competent substantial evidence to sustain the local decision, and whether the essential requirements of law were satisfied. In a certiorari review, the circuit court acts in an appellate capacity in reviewing the local government decision.

In 1997, the 4th District Court of Appeal, in *Poulos v. Martin County*, 700 So. 2d 163 (Fla. 4th DCA 1997), held that third parties challenging a local government decision regarding a development order are subject to a different method of review by the circuit court. Third party challengers receive the benefit of a "trial de novo," in which the circuit court conducts a completely new trial with all new evidence and potentially new issues raised, even though a quasi-judicial proceeding may have already been held at the local government level. A de novo review starts the entire review process over and renders the local decision and any previously held local quasi-judicial proceeding moot. The applicant does not have this option and must challenge a local government decision regarding a development order by certiorari.

Developments of Regional Impact

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. Those developments that review guidelines have been established for are found in s. 380.0651(3), F.S., and include: airports; attractions and recreation facilities; industrial plants, industrial parks, and distribution, warehousing or wholesaling facilities; office development; port facilities; retail and service development; hotel or motel development; recreational vehicle development; multi-use development; residential development; and schools. Guidelines for hospitals, mining operations, and petroleum storage facilities are established by rule of the Administration Commission under chapter 28-24, F.A.C. 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.

There are percent thresholds in s. 380.06(2)(d), F.S., that are applied to the guidelines and standards in s. 380.0651(3). If a development is at or below 80 percent of all numerical thresholds in the guidelines, then that development is not required to undergo DRI review. If a development is at or above 120 percent of the guidelines, the development is required to undergo DRI review. This is also known as the "fixed thresholds" for DRI review. In addition, to "fixed thresholds," there are also rebutabble presumptions. If a development is between 80 and 100 percent of a numerical threshold, the development is presumed not to require DRI review. If a development is at 100 percent or between 100 and 120 percent of a numerical threshold, then the development is presumed to require DRI review. If a development is within 2 miles of a county, the development is reviewed under the standards and guidelines of the less populous county. The two-mile band is not related to resource or public facility impacts, and merely complicates the determination of DRI status for some residential projects.

In 1993, the Third Environmental Land Management Study Committee (ELMS III), recommended termination of the DRI review proceed in certain jurisdictions upon implementation of new

requirements for the intergovernmental coordination elements of the local comprehensive plans. DCA was to provide the minimum criteria for local intergovernmental coordination elements within 6 months of the recommended statutory amendment, and that the phase out should be completed by the end of 1995. In 1996, the Legislature severed the linking between the DRI process and intergovernmental coordination elements and restored the DRI review process.

DRI Review Process

There are seven steps within the DRI review process. Those steps are the preapplication conference, application for development approval, sufficiency determination by the RPC, local governments notice of public hearing, RPC report, local government public hearing, and issuance of the development order by the local government.

The preapplication conference occurs after a development is determined to require DRI review and the developer has contacted the applicable RPC. The purpose of this conference is to identify issues, coordinate relevant requirements of state and local agencies, and promote a proper and efficient review of the proposed development. Other affected state and regional agencies may participate in the conference to identify the permitting requirements of these agencies as they apply to these developments, if the RPC or developer requests it.

Following the preapplication conference, the developer files with the applicable local government jurisdiction, an application for development approval (ADA). Concurrently, the developer provides copies to the applicable RPC and DCA. If the proposed development requires local comprehensive plan amendments, those may be initiated and considered by the local government at the same time it considers the ADA. The statutory twice-per-year frequency limit on plan amendments do not apply to these amendments.

The RPC must determine whether it requires additional information to complete its regional report within 30 days of receipt of the ADA. Upon request, the developer has five working days to inform the RPC whether it intends to provide the information. The developer then has 120 days or other agreed upon period, to provide the information. If the information is not provided, the application is considered withdrawn. The RPC may request additional information within 30 days of the supplemental information submission. However, this request is limited to clarifying information or information needed to answers questioned raised by that information. When the RPC determines that the application is sufficient, the RPC sends a sufficiency to the local government notifying it that the public hearing date may be set.

The local government must give notice of a public hearing on the ADA upon receipt of the RPC sufficiency letter. This notice must be published at least 60 days in advance and must state where the information and reports concerning the ADA may be reviewed. In addition, notice must be given to DCA, the applicable RPC, any permitting agency involved in a conceptual agency review process, and to any other entitled person designed by DCA. If a development is multi-jurisdictional, the developer may request a joint public hearing.

The RPC must prepare its report and recommendations on the proposed development's regional impacts within 50 days of receiving the public hearing notice. The RPC is limited to three review criteria and is required to identify regional issues based on the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities;
- The development will significantly impact adjacent jurisdictions;

- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Other agencies may be requested by the RPC to review the ADA and prepare reports and recommendations on issues within their jurisdiction. If requested, these reports must be a part of the RPC report. However, the RPC may attach dissenting views. In addition, if a water management district or DEP permits have already been issued, the RPC may comment on the regional impactions of the permits, but it may not offer conflicting recommendations.

The local government must render a decision on the ADA within 30 days after the pubic hearing, unless an extension is requested by the developer. The development order must include findings of fact and conclusions of law consistent with statutory requirements. It must also include:

- The monitoring procedures and the local official responsible for assuring compliance by the developer.
- Established compliance dates, both for commencing and completing the development.
- A date in which the local government agrees that the DRI will not be subject to downzoning or other land use changes.
- The annual reporting requirements.
- The legal description of the property.

In addition, the development order may also specific changes that would require a substantial deviation determination review. Within the developer order, a developer may be required to contribute lands or funds for the construction of public facilities or infrastructure. If required, the following criteria must be met:

- the new or expanded facilities need must be reasonably attributable to the proposed development;
- any contribution of funds, lands or public facilities required must be comparable to what the state or local government would reasonably expect to expend to mitigate the impacts reasonably attributable to the proposed development; and
- any funds to lands contributed by the developer must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

Within 45 days after the development order is issued, the owner, developer, or DCA may appeal the order to the Governor and Cabinet sitting as the Florida Land and Water Adjudacutory Commission (FLWAC). These are the only parties that have standing to appeal the development order. However, rules adopted by the FLWAC permit intervention with full party status by "materially affected parties" upon "motion and good cause shown" when an appeal has already been taken by a party with standing.

Substantial Deviations

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.

Marinas

At the federal level, as many as five (5) individual agencies including the U.S. Army Corps of Engineers, the Environmental Protection Agency, U.S. Fish and Wildlife Service, National Marine Fishery Service and the Coast Guard may be involved in the review of a permit application. At the state level, Environmental Resource Permitting will involve the DEP, applicable water management district, FWCC, and conceivably some local government that has received delegation from the DEP of pollution prevention programs. At the local level it is not uncommon to have both a county and a city involved in the authorizations necessary for actual construction. Below is a summary of permits and applicable laws implicated in marina permitting.

Local Government

County or City Comprehensive Plan and Land Development Regulations

Every county and city in Florida must adopt and enforce a comprehensive plan pursuant to Chapter 163, Part II, F.S. Section 163.3177, F.S., requires that each comprehensive plan contain a conservation element and, for those units of government within the coastal zone, a coastal management element. The law requires, at minimum, that the conservation and coastal management elements of any comprehensive plan provide for the continued existence of viable populations of all species of wildlife and marine life. The plan must also provide for the avoidance of irreversible and irretrievable losses of coastal zone resources. Under the plan, each local government develops its own land development regulations.

Every local government with jurisdiction over navigable waters provides extensive scrutiny of any new waterside development including marinas. In addition to outright prohibition of marina construction in many sensitive environmental areas, comprehensive plans, zoning ordinances and other land development regulations usually address all of the water quality and habitat protection standards that have been referenced previously at the federal and state level.

State Permitting

Chapter 373, Part IV F.S., Florida's Water Resources Act

As with the federal government, a single state agency (either the DEP or the appropriate water management district) requires an Environmental Resource Permit for any marina facility constructed within waters of the State. Pursuant to Part IV, Chapter 373, F.S., the permit process requires a demonstration of reasonable assurance that the project complies with state adopted water quality standards, preserves habitat and protects endangered and threatened species and avoids cumulative and secondary impacts that may result from the project under review and similar projects being permitted. The process also requires a demonstration that the project is not contrary to the public interest. If a facility is located within or adjacent to specifically designated waters, such as an Aquatic Preserve, the application must demonstrate that the project is clearly in the public interest.

Related Laws

As with the federal process, the permitting agency consults with other state and local agencies with related responsibilities. The laws and agencies are:

- Chapter 376, F.S., Coastal Protection. Under this law, a marina facility may be required to develop oil spill prevention plans and programs to ensure compliance with water quality standards. This program is generally administered by the DEP.

- Chapter 403, F.S. This law is also administered by DEP and requires compliance with adopted water quality standards for the applicable water body.

- Section 370.12 (2), F.S., the Florida Manatee Sanctuary Act. The Fish and Wildlife Conservation Commission is authorized to adopt rules under Chapter 120, F.S., regarding the expansion of existing or construction of new marina facilities and mooring or docking slips involving the addition or construction of five (5) or more powerboat slips. The Commission is also authorized to adopt rules relating to regulation of the operation and speed of motorboat traffic where manatee sightings are frequent and it can generally be assumed that they inhabit the areas in question on a regular and continuous basis. The Commission is also authorized, pursuant to the Administrative Procedures Act, to protect manatee habitats such as seagrass beds pursuant to s. 370.12 (2)(m), F.S. Any permit application within an area inhabited by manatees or other threatened species receives extensive comment from Commission staff and in fact may be denied if the project poses a significant threat and is determined to be contrary to the public interest.

Federal Permitting

The Clean Water Act and the Rivers and Harbors Act of 1899

Pursuant to Section 10 of the Rivers and Harbors Act (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344), any construction or the discharge of materials into waters of the United States requires authorization from the U.S. Army Corp of Engineers. In summary, issuance of a permit requires assurance that applicable water quality standards are maintained, habitat is preserved, and endangered and threatened species are protected. The issuance of the permit also requires scrutiny of any cumulative and secondary impacts that may result from the authorization.

Related Federal Acts and Agencies

In the course of permit review under the Clean Water Act, and the Rivers and Harbors Act, compliance with the following acts must be shown:

- Section 401 of the Clean Water Act (33 U.S.C. 1341) requires any permittee to obtain certification from the state that the project complies with applicable water quality standards and effluent limitations.

- Section 307(c) of the Federal Coastal Management Act of 1972 (16 U.S.C. 1456(c)) requires an applicant for a permit must provide certification that the marina complies with the state's Coastal Zone Management Program. No permit can be issued until the state concurs in this finding.

- The Fish and Wildlife Coordination Act (16 U.S.C. 661-666C) requires the Corps of Engineers to consult with either the U.S. Fish and Wildlife Service or the National Marine Fishery Service, as appropriate, relative to the protection of habitat and species. Pursuant to any dispute between the agencies over habitat protection, the permit may be denied.

- The Endangered Species Act (16 U.S.C. 1531 et seq.) requires the protection of endangered species and critical habitat. Under the Act, the U.S. Fish and Wildlife Service and National Marine Fishery Service must consult with the Corps of Engineers. If either of these agencies determines that a marina project is likely to jeopardize the

continued existence of a species or the destruction of habitat the permit cannot be issued.

- The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) imposes a perpetual moratorium on the harassment, hunting, capturing or killing of marine mammals. This act also requires consultation with either the U.S. Fish and Wildlife Service or National Marine Fishery Service and assurance that any implicated marine mammal is protected.

Airports

The Florida Airport Managers Association, which represents over 80 publicly owned and operated airports, adopted a resolution last year advocating modifications to Chapters 163 and 380, F.S., to replace DRI review of airports with a process that integrates current FAA planning with local government comprehensive plans.

Airport planning and development is subject to a pervasive system of state and federal oversight as to render the DRI process redundant. It is extremely expensive and time consuming as well to go through the DRI process. Below is a summary of permits and applicable laws implicated in airport permitting.

Local Government

Local Government Comprehensive Plans and Land Development Regulations

Every city and county in Florida must adopt and enforce a comprehensive plan, pursuant to Chapter 163, Part II, F.S. Section 163.3177, F.S., requires that each comprehensive plan contain a future land use element designating the proposed future general distribution, location and extent of lands for public facilities, which airports typically are. The comprehensive plan must also contain a traffic circulation element, which for municipalities having populations greater than 50,000 and counties having populations greater than 75,000, must include as part of the circulation element, or as a separate element, plans for port, aviation and related facilities, which are coordinated with the general circulation and transportation elements.

Local governments, in adopting land development regulations to implement their comprehensive plans, are required to include specific and detailed provisions necessary or desirable to implement the plan which shall, as a minimum, ensure the compatibility of adjacent uses. Local governments with airports within their jurisdiction are given additional authority and direction concerning land use compatibility. The creation or maintenance of an airport hazard and the incompatible use of land in the vicinity of an airport have been determined to be public nuisances. Local governments with airport hazards (as defined pursuant to federal obstruction standards) are given the power and direction to adopt airport-zoning regulations to minimize or eliminate the effect of those hazards. Where the airport and the hazard are in different political jurisdictions, the statute requires either interlocal agreement or creation of a joint airport zoning board to address the airport hazard issue. Where a local government has adopted land development regulations pursuant to Chapter 163, F.S., which addresses the use of land consistent with the airport zoning statutes, no land use compatibility regulations pursuant to Chapter 333, F.S., need be adopted.

Given the pervasive level of federal and state regulation of air commerce and aviation, local government authority has in some ways been circumscribed. For example, s. 330.36, F.S., provides that no county or municipality of the state shall license airports or control their location

except by zoning requirements. The determination of suitable sites and standards of safety for airports is reserved to the state in accordance with the provisions of Chapter 330, F.S.

State Regulation

There is an extensive system of state oversight of aviation and airport facilities that is vested in the FDOT. Chapter 330, F.S., requires FDOT approval of any airport site. Site approval is conditioned upon satisfaction of a number of items including adequacy of the proposed airport, conformance to standards of safety, compliance with applicable county or municipal zoning requirements, receipt and consideration of comments from nearby airports, property owners and adjacent jurisdictions, and safe air traffic patterns.

The Florida Airport Development and Assistance Act, Chapter 332, F.S., charges the FDOT with the development and improvement of air routes, airport facilities and landing fields. To that end, the department has implemented aviation system planning to establish an integrated statewide aviation system. The department is charged with the development of a state-wide Aviation System Plan which is periodically updated and which analyzes aviation need on a five, ten and twenty year planning horizon. The Aviation System Plan must be consistent with the Florida Transportation Plan and does not preempt local airport master plans that are adopted in compliance with Federal and State requirements. Pursuant to the act, FDOT also provides financial assistance to local sponsors in accordance with its work program. As part of its integrated planning effort, only projects that will contribute to the implementation of the State Aviation System Plan, are consistent with and contribute to the implementation of an airport master plan and are consistent, to the maximum extent feasible, with the approved local government comprehensive plan, are eligible for state funds.

Federal Oversight

As a practical matter, most aviation development occurs as a function of federal involvement in aviation through federal funding. The federal government has a pervasive reach in aviation as a result of the national policy for the promotion and operation of a national plan of integrated airport systems. See, generally, 49 U.S.C. 471, Airport Development. As a result of the federal interest, a variety of funds have been established for the planning, construction and operation of a system of airports nationwide. These funds are administered by the Federal Aviation Administration within the U.S. Department of Transportation. As with the state funds, federal funds cannot be expended except in conformance with certain planning requirements. The FAA requires as a condition precedent to funding any activity that the activity be included in an FAA-approved master plan for the airport facility.

The FAA-approved master plan is not a static document. The planning processes require an updated revision to the plan at least every five years. In practice, some airports revise their master plans more frequently, and, for the larger airports, the master plan is almost in a continual state of revision.

Federal planning and funding decisions for aviation development are subject to review under the National Environmental Policy Act (NEPA). As such, those actions must be reviewed as directed by NEPA and can result in the preparation of an environmental assessment (EA) or environmental impact statement (EIS) in order to implement an aviation project. That review is in addition to, and not in derogation of, local or state review of the activity.

The FAA also administers the National Aviation Noise Policy. See, generally, 49 U.S.C. 475. This is one area where the Federal interest has preempted state and local regulation in favor of a

consistent, coordinated policy for all of the nation's airports. Accordingly, neither the DRI program nor any other local or state regulatory program could have an effect in the area of noise.

Other

While there is a coordinated and extensive interlocking scheme of local, state and federal regulation of airports and aviation facilities, that scheme does not in and of itself exempt airports from the operation of other local, state and federal environmental regulatory programs. Those programs continue to apply to proposed activities of airport facilities. For example, the Clean Water Act and the Rivers and Harbors Act of 1899, require authorization from the U.S. Army Corps of Engineers for any construction or discharge of materials into waters of the United States. (33 U.S.C. 403, 33 U.S.C. 1444). Issuance of a permit under these programs requires assurance that all applicable water quality standards are maintained, habitat is preserved, and endangered and threatened species are protected. Issuance of the permit also requires an analysis of cumulative and secondary impacts that may result from the authorization. In addition, where applicable, the following programs also apply: National Pollutant Discharge Elimination System (NPDES) permitting, Federal Coastal Management Act, Fish and Wildlife Coordination Act and Endangered Species Act.

At the state level, any activity in jurisdictional wetlands requires issuance of an environmental resource permit (ERP) from either DEP or the appropriate water management district. This permit, issued pursuant to Part IV, Chapter 373, F.S., demonstrates reasonable assurance that the project complies with state adopted water quality standards, preserves habitats and protects endangered and threatened species and avoids unacceptable cumulative and secondary impacts. State and federal regulatory programs concerning the storage and handling of petroleum products and other potentially hazardous materials also apply in full to airport projects.

Petroleum Storage Facilities

Petroleum storage facility planning and development is subject to such a pervasive system of state and federal oversight as to render the DRI process redundant. It can be extremely expensive and time consuming to go through the DRI process. Below is a summary of permits and applicable laws that are implicated in petroleum storage facility permitting.

Local Government Control

Every city and county in Florida must adopt and enforce a comprehensive plan pursuant to Chapter 163, Part II, F.S. If the local government is within the coastal zone, the plan must include a coastal management element that calls for a comprehensive master plan to be prepared by each deep-water port. Inland counties and cities obviously will not have a port master plan, but their comprehensive plans still must address all of the elements outlined in s. 163.3177, F.S. These plans must also contain a traffic circulation element, which for municipalities having populations greater than 50,000 and counties having populations greater than 75,000 must include as part of the circulation element, or as a separate element, plans for aviation, rail, and intermodal terminals which are coordinated with the general circulation and transportation elements. Inland bulk storage facilities are a critical link in the intermodal transportation of petroleum products. They facilitate product movement between ports, pipelines and the truck transportation that supplies fuels to retail consumer outlets. They also link the supply of aviation fuel from ports to major metropolitan airports.

Local governments, in adopting land development regulations to implement their comprehensive plans, are required to include specific and detailed provisions necessary or desirable to implement the plan which shall, at a minimum, ensure the compatibility of adjacent uses. Local

comprehensive plans give local governments the necessary authority to regulate the placement and compatibility of bulk petroleum storage facilities and to address any traffic impacts of such facilities. Other state and federal regulatory schemes create a pervasive network regulating all other aspects of these facilities. (In many cases, local governments have authority to carry out tank regulations by delegation of authority from the Department of Environmental Protection under Chapter 376, F.S., discussed below.)

State and Federal Regulations

In Chapter 376, F.S., Pollutant Discharge Prevention and Removal, the storage, transportation and disposal of petroleum products is extensively regulated. The Department of Environmental Protection is given the power and duty to establish rules governing the construction, registration, operation and maintenance of petroleum bulk storage facilities, and the aboveground tanks that comprise these facilities.

Chapter 62-761, F.A.C., which implements Chapter 376, F.S., provides standards for underground tanks and for all aboveground storage tank systems over 550 gallons. These regulations require the registration of each such tank and require that the facility provide financial responsibility sufficient to meet any problems that might arise from a discharge. All storage tanks must be engineered, constructed, operated and maintained according to specific performance standards set out in the rule. Inspection and repair schedules are mandated, as is extensive record keeping and reporting. All such tanks must be appropriately lined, cathodically protected and have secondary containment.

The applicable requirements of various standards setting bodies are incorporated by reference in Chapter 62-761, F.A.C., and made part of the requirements for construction, maintenance and inspection of such tanks. These include standards developed by the American Concrete Institute, the American Petroleum Institute, the American Society of Mechanical Engineers, the American Society for Testing & Materials, the National Association of Corrosion Engineers, the National Leak Prevention Association, the Petroleum Equipment Institute, the Society for Protective Coatings, the Steel Tank Institute, and Underwriters Laboratories. These facilities are also subject to the requirements of the National Fire Protection Association, which prescribes methods of minimizing the risks of fire by placement and diking of the tanks. Chapters 376 and 403, F.S., also provide for civil and criminal liability for any discharges from these facilities and for violations of the rules applicable to them.

Inland bulk storage facilities also must comply with the following:

- Florida and federal regulations governing the discharge of wastewater and/or storm water under both the state's own regulations and its implementation of the National Pollutant Discharge Elimination System as part of the federal Clean Water Act (33 U.S.C. 1344).

- The Federal Clean Air Act (42 U.S.C. 7401), including Title V, is administered partially by the state and partially by the federal government and controls air emissions from these facilities.

- Any facility constructed in jurisdictional wetlands requires issuance of an environmental resource permit (ERP) from either DEP or the appropriate water management district. This permit, issued pursuant to Part IV, Chapter 373, F.S. requires the applicant to provide assurance that the permitted facility complies with state water quality standards, preserves habitats and protects endangered and threatened species.

- Chapter 62-521.400, F.A.C., Wellhead Protection, restricts the location of aboveground petroleum storage tanks with regard to their proximity to potable water wells.

- Chapter 62-740, F.A.C., Petroleum Contact Water, controls the handling of water, which may come into contact with petroleum products at storage facilities.

- Chapter 62-770, F.A.C., Petroleum Contamination Site Cleanup Criteria, provides standards and procedures to be used in the event of a discharge.

Regional Planning Councils

The State of Florida's 67 counties are divided into eleven planning regions, each of which is represented by a Regional Planning Council (RPC). 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. The Strategic Regional Policy Plan (SRPP), as required by s. 186.507, F.S., is a long-range guide for physical, economic, and social development of a planning district through the identification of regional goals and policies.

The SRPP must contain regional goals and policies for developing a coordinated program of regional actions directed at resolving identified problems and needs. As specified in Rule 27E-5, F.A.C., each SRPP must address, at a minimum, the following areas: Affordable Housing; Economic Development; Emergency Preparedness; Natural Resources of Regional Significance; and Regional Transportation. These strategic regional policy plans must be consistent with the state comprehensive plan.

State Comprehensive Plan

The state comprehensive plan, 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.

Rural Issues

The Legislative Committee on Intergovernmental Relations (LCIR) conducted an interim project and prepared a final report entitled Report on Development of a State Rural Policy, March 2000. The committee undertook this project to complement legislation it developed regarding a state urban policy, enacted in ch. 99-378, L.O.F., which created the Urban Infill and Redevelopment Assistance Program. During the course of the interim project, testimony and findings indicated that the needs of Florida's rural communities are in many ways similar to the needs of Florida's inner city

communities: access to more and better jobs; workforce development; access to services; improved infrastructure; educational quality; and availability of capital.

The LCIR concluded that the state has an interest in promoting economic prosperity for residents of its rural areas while protecting the unique character and heritage of those areas. A need for the state to assist rural governments in developing and implementing strategies to address problems facing their communities would be balanced by protecting the rural character and assets of rural communities.

Problems in rural Florida can be broadly categorized as follows: limited resources; economic development needs; changing agricultural conditions and related land-use problems; reduced quality of life and access to public services; and limited capacity to address local issues in a comprehensive fashion. The problems are interrelated, and problems in one area result in problems in other areas.

Rural areas can also be characterized by their unique assets, which may include: an abundance of natural resources; beautiful scenery; clean environment; productive agricultural lands; rich history and culture; ethnic diversity; available labor pool; proximity to institutions of higher education; close-knit communities and social support systems; or place-based knowledge and skills. Many of these assets can be enhanced and marketed to become engines of economic development. The development of nature and heritage-based tourism is one such asset-based approach. Agricultural diversification and value added agricultural production are other approaches. Innovative technology is a cost-effective method for increasing rural communities' educational and workforce development opportunities.

The LCIR determined that successfully revitalizing and sustaining rural areas depends on addressing, through an integrated and coordinated community effort, a range of varied components essential to a healthy rural environment, including cultural, educational, recreational, economic, transportation, land use, information technology, and social service delivery components. A collaborative approach is needed to aid communities in defining their own common visions, goals, objectives, strategies, action plans, prioritization of objectives and strategies, and targeting of scarce resources. Because of the interrelated nature of rural issues and problems, solutions should be pursued by a broad-based representative group of stakeholders that includes community residents and the private and nonprofit sectors. The LCIR voted to introduce legislation incorporating a series of recommendations to assist rural communities.

Local governments are currently employing a number of different techniques directed at rural lands preservation. While many local governments have statements in their comprehensive plan supporting rural lands preservation, other local governments identified specific incentive-based policies to support rural lands preservation. For example, Palm Beach County has a land acquisition program that leases the land acquired back to farmers, a transferable development rights program for environmentally sensitive and agricultural lands, clustered development options with increases in density by right on agricultural lands; and an agricultural economic development program. And in Highlands County, the county has employed TDRs where 100 acres of agricultural land was placed under a conservation easement in exchange for 20 development units that were purchased by a developer and clustered on another site.

Rural Economic Development

Numerous laws have been enacted creating policies to promote economic development in Florida. Although some of these laws include specific provisions to improve economic conditions in rural areas, the laws generally have been more effective in improving conditions in the more populated urban and urbanizing areas of the state.

During the 1999 regular session, the Legislature passed ch. 99-251, L.O.F., which contained several components designed specifically to further promote rural economic development. Among other provisions, the legislation codified the multi-agency Rural Economic Development Initiative (REDI) within the Governor's Office of Tourism, Trade, and Economic Development (OTTED). REDI is designed to coordinate and focus the efforts and resources of state and regional agencies on Florida's economically distressed rural communities (s. 288.0656, F.S.). The legislation also created a Rural Infrastructure Fund, which is designed to address infrastructure needs associated with economic development projects in rural communities (s. 288.0655, F.S.). Several of the LCIR rural policy project recommendations relating to economic development and technical assistance build on this legislation.

Examples of other rural economic development initiatives that have been established in recent years include:

The Regional Rural Development Grants Program (or Rural Staffing Grants) was created to build the professional capacity of regional economic development organizations made up of rural counties, communities, and organizations. The funds are intended to be used for staffing assistance for regional economic development organizations. The maximum amount an organization may receive in any year is $35,000 ($100,000 in a rural area of critical economic concern) and must be matched each year by an equivalent amount of non-state resources (s. 288.018, F.S.).

The Rural Job Tax Credit Program provides tax credits to be applied toward the state's sales or corporate taxes by businesses that create jobs in a rural area. The amount of tax credit is based upon the number of individuals employed by the business and upon the ranking of the area where the business is located (ss. 212.098 and 220.1895, F.S.).

The Rural Community Development Revolving Loan Fund provides loans to rural local governments and organizations supported by local governments. Loans may enable the client to tap other federal, state, or local resources to finance development or maintenance of economic base (s. 288.065, F.S.).

Urban Issues

In recognizing the importance of the vitality of urban cores to their respective regions and the state, the Legislative Committee on Intergovernmental Relations (LCIR), conducted an interim project, during the summer of 1997, on developing an urban policy for Florida to preserve, revitalize, and sustain the state's urban centers. During the course of the interim, the committee heard testimony from many experts including urban policy scholars; federal, state, and local government officials; representatives from regional entities, financial institutions, and residential and commercial developers; and others knowledgeable about urban issues.

The testimony emphasized the need for public/private partnerships, as well as the involvement of the community, to successfully address the varied problems of an urban area. Each urban area has unique needs and community support is needed in affecting change and directing resources to those needs. In addition, the private sector stressed the importance of the state and local governments demonstrating their commitment to urban areas before they are willing to invest in redevelopment projects. Finally, the following specific urban problems were identified:

- Vacant and abandoned buildings;

- Loss of jobs and corresponding high unemployment rates;
- Lack of public transportation facilities;
- Concerns for public safety;
- Difficulty in recruiting businesses into core areas;
- Disincentives to development because of lower land prices and building costs outside of urban areas;
- Eroding tax bases;
- Deterioration of neighborhoods; and
- Lack of sense of regional identity or citizenship by residents in outlying areas.

The LCIR sought to begin establishing a state urban policy by developing and identifying policies essential to revitalization of urban cores. The LCIR initially focused its efforts on promoting urban infill and redevelopment as a method to create jobs, improve neighborhoods, stimulate the economy, and to have a general positive affect in rectifying other urban needs. The committee sought to "level the playing field" between the cost of developing downtown versus the urban fringe, and to encourage urban redevelopment generally. The committee's recommendations are set forth in a report titled "1998 Report On The Development Of A State Urban Policy."

Florida has various policies that address aspects of urban development including the State Comprehensive Plan, Strategic Regional Policy Plans, Local Government Comprehensive Plans, and Community Redevelopment Agencies, among others. More recently, a law enacted by the 1996 Legislature authorized the Department of Community Affairs to undertake a Sustainable Communities Demonstration Project for the development of models to further enhance local government's capacity to meet current and future infrastructure needs with existing resources. Additionally, the Governor's Commission for a Sustainable South Florida and the Florida Department of Community Affairs, in conjunction with regional and local governmental entities, has initiated a regional approach to urban revitalization through the "Eastward ho!" initiative in southeast Florida.

In 1999, the "Growth Policy Act", engrossed as ch. 99-378, L.O.F., authorizes municipalities & counties to designate urban infill and redevelopment areas based on specified criteria and provides economic incentives for these areas. The bill creates an Urban Infill and Redevelopment Assistance Grant Program to be used by local governments to develop community participation processes for the development of an urban infill and redevelopment plan. Matching grants funds are also provided for implementing urban infill and redevelopment projects that assist the goals identified in a local governments' urban infill and redevelopment plan.

Laws governing urban policy consist of a series of fragmented programs and requirements administered by various state agencies and implemented by various types of local governments. Consequences of this approach to urban policy include conflict among various program objectives and may result in achievement of certain objectives at the expense of other objectives relevant to urban areas.

Community Redevelopment

Part III of Chapter 163, Florida Statutes, created the "Community Redevelopment Act of 1969." The Act provides counties and municipalities with a comprehensive system for the redevelopment of blighted and slum areas when such redevelopment is necessary in the interest of the public health, safety, morals, or welfare of the residents of the county or municipality.

The legislature enacted the provisions of Chapter 163, F.S. because it found the redevelopment of slum and blighted areas to be a "necessity in the public interest." In furtherance of this interest, it enacted provisions conferring powers for public uses and authorizing the expenditure of public money and the exercise of the powers of eminent domain and police power.

The Empowerment Zone/Enterprise Community (EZ/EC) program

The Empowerment Zone/Enterprise Community (EZ/EC) program is a federal initiative designed to create jobs and economic growth in distressed urban and rural communities. Empowerment Zones and Enterprise Communities receive federal grant funding to assist in the implementing of strategic plans.

In December 1994, the U.S. Department of Housing and Urban Development (HUD) named nine "empowerment zones" (six urban and three rural) and nearly 100 "enterprise communities." The selection entitled each of the six urban empowerment zones to approximately $100 million over 10 years. Although no Florida communities were selected as empowerment zones, three Florida communities were named enterprise communities: Jackson County (Marianna), Miami-Dade County, and Tampa. Each enterprise community was entitled to receive approximately $3 million in federal aid over 10 years.

In April 1998, (HUD) announced a second round of federal empowerment zone designations. President Clinton's administration requested $1.7 billion for the second round of funding.

In a letter written during the 1998 application process, the late Governor Lawton Chiles pledged $5 million for any Florida community with a successful application. While the state's pledge was not a required match and did not affect federal funding for the program, Miami-Dade County was granted a significant number of points for demonstrating such support.

Florida established one of the first enterprise zone programs in the country in 1980, to encourage economic growth and investment in distressed areas by offering tax advantages to businesses willing to invest within specified areas. An "enterprise zone" is a specific geographic area targeted for economic revitalization. The state has 31 designated enterprise zones in Florida.

In 1994, the Florida Legislature passed significant revisions to the enterprise zone program. The original program became overwhelmed with the number of zones allowed. As a result, the existing zones were repealed on December 31, 1994, and parameters were established for the designation of new zones. Administrative responsibilities of the program were transferred from the Department of Community Affairs to the Department of Commerce. The jobs tax credit eligibility criteria were revised to require both the business and employee to reside within an enterprise zone.

In 1995, 19 enterprise zones were designated in urban and rural communities throughout the state. Local governments were required to establish a community-based Enterprise Zone Development Agency (EZDA).

In 1996, 11 new enterprise zones were authorized by the Florida Legislature, 10 of which submitted acceptable plans and applications. Administrative duties were transferred to the newly created Office of Tourism, Trade and Economic Development (OTTED) upon dissolution of the Department of Commerce. In 1997, OTTED designated the City of Fort Pierce as the 30th enterprise zone. In

1998, the 31st enterprise zone was added when the Florida Legislature further amended the enterprise zone program by authorizing a new zone to be designated within a brownfield pilot project area (Clearwater).

Local Option Surtax

Any county having a total population of 50,000 or less on April 1, 1992 (31 counties) is authorized to levy the small county surtax at the rate of 0.5 or 1 percent. County governments may impose the levy either by extraordinary vote of the governing body if the proceeds are to be expended for operating purposes or by voter approval in a countywide referendum if the proceeds are to be used to service the bond indebtedness.

The local government infrastructure surtax is levied at the rate of 0.5 or 1 percent pursuant to an ordinance enacted by a majority vote of the county's governing body and approved by voters in a countywide referendum. Generally, the proceeds must be expended to finance, plan, and construct infrastructure; to acquire land for public recreation or conservation or protection of natural resources; and to finance the closure of local government-owed solid waste landfills that are already closed or are required to close by order of the DEP. In addition, in lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue. If the proposal to levy the surtax is approved by a majority of the electors, the levy shall take effect as provided by in the adopted resolution.

Both of these surtaxes are subject to a combined rate limitation of 1 percent.

Thirty-one counties are defined as small counties, which is a county having a total population of 50,000 or less on April 1, 1992. As of September 29, 2000, 12 of the 31 counties (DeSoto, Dixie, Flagler, Glades, Hamilton, Hendry, Jefferson, Lafayette, Madison, Suwannee, Taylor, and Wakulla) levied the local government infrastructure surtax at 1 percent. Because of the current 1 percent maximum cap, only 19 counties were eligible to levy the small county surtax. All but two of those counties, levy at the maximum rate of 1 percent. Those counties are: Baker, Bradford, Calhoun, Columbia, Gadsden, Gilchrist, Hardee, Holmes, Jackson, Levy, Liberty, Nassau, Okeechobee, Sumter, Union, Walton, and Washington.

Twenty-seven counties currently levy the local option infrastructure surtax. Two of those counties, Bay and Hillsborough Counties, only levy 0.5 percent of the surtax. The counties that currently levy 1 percent of the surtax are: Charlotte, Clay, DeSoto, Dixie, Escambia, Flagler, Glades, Hamilton, Hendry, Highlands, Indian River, Jefferson, Lafayette, Lake, Leon, Madison, Martin, Monroe, Osceola, Pinellas, Sarasota, Seminole, Suwannee, Taylor, and Wakulla. Municipalities located within any county not listed above may levy 1 percent of the local option infrastructure surtax, after approval at referendum. Municipalities within Bay and Hillsborough Counties may levy 0.5 percent of the surtax.

Growth Management Study Commissions

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.

In July 2000, Governor Bush issued Executive Order 2000-196 appointing a twenty-three member Growth Management Study Commission to review Florida's growth management system in order to "assure that the system meets the needs of a diverse and growing State and to make adjustments as necessary based on the experience of implementing the current system." The 23-member study commission included representatives of local government, the development community, agriculture, and the environmental community. The commission conducted 12 meetings throughout the state to hear citizen comment, expert opinion, and deliberate on the question of how to adjust Florida's system of growth management. There was general consensus among members of the commission, as well as members of the public, that the current system of local comprehensive planning in Florida has fallen short of addressing problems associated with growth, including: traffic congestion, school overcrowding, loss of natural resources, decline of urban areas and conversion of agricultural lands. Finally, the commission was organized into five subcommittee working groups:

- State, Regional and Local Roles
- Infrastructure
- Citizen Involvement
- Rural Policy
- Urban Revitalization.

In its final report entitled "A Livable Florida for Today and Tomorrow," the Growth Management Study Commission set forth 89 recommendations for reforming Florida's growth management system. A summary of the major recommendations of the commission is as follows:

- Replace the current State Comprehensive Plan set forth in chapter 187, F.S., with a vision statement stating that the "State of Florida's highest priority is to achieve a diverse, healthy, vibrant and sustainable economy and quality of life which protects our natural resources and protects private property rights."

- Develop a uniform fiscal impact analysis tool for evaluating the "true cost of new development." The final report also recommends the appointment of a 15-member commission to oversee the development of the model.

- Require that each local government adopt a financially feasible public school facilities element to reflect the integration of school board facilities, work programs, and the future land use element and capital improvement programs of the local government. Require that local governments shall ensure the availability of adequate public school facilities when considering the approval of plan amendments and rezoning that increase residential

densities. Before a local government can deny a rezoning that increases density based on school capacity, the local school board must communicate to the local government that it has exhausted all reasonable options to provide adequate school facilities.

- Refocus state review of local government comprehensive plan amendments to amendments that raise one or more "compelling state interests." These compelling state interests are limited to: natural resources of statewide significance; transportation systems and facilities of statewide significance; and disaster preparedness to reduce loss of life and property. Maps would be prepared which identify geographic areas that raise these compelling state interests.

- Establish Infrastructure Development Encouragement Area (IDEA) Priority Funding Areas where local governments would identify projects and areas that it wishes to promote. In turn, these areas and projects would receive certain incentives such as fast track permitting, state financial participation and priority in infrastructure development and waiver or reduction in development fees.

- Eliminate and replace the Development of Regional Impact Program with a system of Regional Cooperation Agreements or Developments with Extra jurisdictional Impact to be negotiated by the eleven regional planning councils.

- Citizen participation provisions that enhance public notice, expand standing for certain "affected" owners of real property whose property is adjacent to a parcel of property, which is located in a neighboring jurisdiction and is the subject of a land use change, and provide a uniform process for challenging land development orders that are inconsistent with comprehensive plan amendments.

- Authorize incentives for an effective urban revitalization policy, including dedicated sources of revenues for "fix-it-first" backlog of infrastructure needs in targeted infill areas.

- Develop a Rural Lands Conservation Policy, including the public purchase of conservation and agricultural easements and the use of transferable density rights for rural property to be used for the implementation of clustered development in appropriate locations.

C. EFFECT OF PROPOSED CHANGES:

This bill revises statutes relating to growth management.

This bill addresses the following six issues:

- Department of Community Affairs oversight and comprehensive planning process.

- Citizen Access.

- Developments-of-Regional Impact Process Revision.

- Rural Issues.

- Urban Issues.

- Infrastructure Funding Options

DCA REGULATORY OVERSIGHT AND COMPREHENSIVE PLAN PROCESS

- Reduces DCA's regulatory oversight by providing for a sustainable communities certification program. (section 10)
    - This certification program is in lieu of the sustainable communities demonstration project.
    - A certified area receives the following benefits: elimination of state review of certain local comprehensive plan amendments within the certified areas; the assumption of DRI review authority of DCA and the applicable RPC; and priority State infrastructure spending authority.
    - Certification is for five years, unless revoked. The five-year period may be extended for additional five-year periods, if DCA determines that the local government is complying with the agreement terms.

- Increases the cumulative annual effect threshold from 120 acres to 150 acres for all local governments, with specified designated areas. (section 8)

- Increases the cumulative annual effect threshold from 120 acres to 200 acres for consolidated governments. (section 8)

- Increases the acreage allowed for small-scale amendments, located within specified areas such as urban infill areas and other similarly situated areas, from 10 acres to 20 acres. (section 8)

- Eliminates the residential density limitation of 10 units per acre, except for those small-scale amendments within the coastal high-hazard zone. (section 8)
- Streamlines the comprehensive plan/plan amendment process, effective October 1, 2001, by removing current time disincentives in the process. (Section 7)
    - Removes the timing disincentive for local governments to request a waiver of DCA's amendment review by reducing the review time frames from 90 days to 60 days.
        - The time-frames for a request to review the amendment by the regional planning council or an affected person (30 days after transmittal by the local government) are made substantially the same as the time-frames for comments by state agencies and the regional planning councils (30 days after receipt by DCA).
        - Currently, these time frames are cumulative for a total of 60 days.
        - Local government may request a review at the time of transmittal of the amendment rather than 30 days after transmittal.
    - Local governments send the amendment package directly to all review agencies at the time of transmittal of the amendment to DCA.
    - State agencies and regional planning councils may review the amendment within the initial 30 days after receipt by DCA. DCA administrative rules allow 5 days for DCA to determine the amendment package is complete, verify the amendment has been sent to the appropriate agencies for review, and set the deadline for the 30-day agency review comments.
    - DCA has 35 days after receipt of the amendment to notify the local government of its decision to review the amendment. This allows time (5 additional days) for receipt of a request for review and to consider agency comments in the agency's decision to review.
    - DCA has 30 days after receipt of the agency comments to issue its Objections, Recommendations and Comments report to the local government for a total of 60 days from receipt of the amendment by DCA.

- Revises requirements, effective October 1, 2001, relating to publication of its notice of intent by the Department of Community Affairs. (section 7)
  - DCA publishes a Notice of Intent (for both "in" and "not in" amendments) in the legal notice or classified ad portion of the newspaper, with no special requirements for the size of the ad or the size of the type.
  - At the proposed and adoption public hearings (and between these two hearings), the local government must have a sign-in form for affected persons.
    - Persons who may wish to challenge an amendment may receive a courtesy informational statement by providing their name and address to the local government.
    - The local government includes the list of all such persons with the adoption package that is transmitted to DCA.
    - DCA sends a postcard or a short letter to each person, informing him or her that the Notice of Intent is about to appear in the newspaper.
  - DCA is authorized to provide a model for the sign-in form.
  - Local governments that have an internet site must post the agency's notice of intent within 5 days of receipt.
  - DCA also posts the Notice of Intent on the DCA internet site.
  - The 21 days to challenge runs from the date of publication, and is not based upon the date of receipt of the postcard or the date of appearance on the DCA internet site. The present statutory requirement that affected persons establishes standing through written or oral comments to the local government during the adoption process is retained.

- Provides that if a local government does not receive a timely objection, a comprehensive plan amendment will not be reviewed by DCA for compliance. Local governments are still required to hold transmittal and adoption hearings. However, upon certification by the local government that no timely objections were received and that the adopted amendment has not been revised, then DCA shall not further review it. (section 7)

- Requires priority review for comprehensive plan amendments for rural communities, which address economic development, etc. (section 7)

CITIZEN ACCESS

- Allows for earlier and better citizen involvement in the process. Local governments are required to include in their citizen participation procedures requirements that:
  - a user-friendly public notice be given within 15 days after submitting the application.
  - formal public notice clearly identifies, in plain language, the nature of the amendment or application.
  - a conspicuous on-site sign requirement for all site-specific future land use map amendments require a public hearing. Local governments determine the required information and the cost of the signs is borne by the applicant.
  - a citizen involvement plan requirement for all comprehensive plan amendments and land use proposals. At the time of application, the applicant must articulate their citizen involvement plan. (section 6)

- Requires DCA to develop best-management practices to increase citizen involvement and help local governments achieve public participation goals. These practices shall:
  - encourage plain language in notices;
  - encourage development of citizen involvement plans; and
  - recommend non-traditional forms of notice. (section 6)

- Increases standing to “those parties truly affected”, not limited to geography.
    - Real property owners abutting real property, which is the subject of a proposed change to a future land use map, now have the right to challenge the proposed change. (section 7)

- Revises the current quasi-judicial process. (section 9)
    - Provides for a uniform proceeding to address challenges to a development order's consistency with the comprehensive plan and challenges to a development order's consistency with the land development regulations.
    - Allows local governments to establish a special master process to address quasi-judicial proceedings associated with development order challenges, by adoption of a local ordinance. The ordinance must include the following minimum provisions:
        - notice by publication and by mailed notice to other property owners as required by law simultaneous with the filing of an application for development review, excluding building permits. The notice must tell people how to initiate the quasi-judicial process and the timeframes for doing so. The request for a special master need not be a full-blown petition or complaint. The local government shall include an opportunity for an alternative dispute resolution process and may include a stay of the formal hearing for this purpose;
        - an opportunity to participate in the process for an aggrieved or adversely affected party which provides a reasonable time to prepare and present a case;
        - an opportunity for reasonable discovery prior to a quasi-judicial hearing;
        - a hearing before an independent special master who shall be an attorney with at least five years experience and who shall, at conclusion of the hearing, recommend written findings of fact and conclusions of law;
        - at the hearing, all parties have the opportunity to respond, present evidence and argument on all issues involved and to conduct cross-examination and submit rebuttal evidence;
        - the standard of review applied by the special master shall be in accordance with Florida law; and
        - a hearing before the local government that shall be bound by the special master's findings of fact unless the findings of fact were not based on competent substantial evidence. The governing body may modify conclusions of law. Provided, however, that the governing body shall be authorized to correct a misinterpretation of the local government's comprehensive plan or land development regulations without regard to whether the misinterpretation is labeled as a finding of fact or a conclusion of law.
        - no ex parte communication relating to the merits of the matter under review shall be made to the special master. No ex parte communication relating to the merits of the matter under review shall be made to the governing body after a time to be established by local ordinance, but no later than receipt of the recommended order by the governing body.
    - The standard of review and burden of proof is in accordance with Florida law.
    - Upon adoption of the ordinance with the minimum provisions for a special master process, there is certiorari review at the Circuit Court level of final action of any development order.
    - If a local government chooses not to adopt a special master process, there is de novo review, for all parties, at the Circuit Court level of final action of any development order.
    - In addition, the verified complaint provisions of 163.3215, F.S., is deleted.

DRI PROCESS REVISIONS

- Sunsets the DRI process on January 1, 2005. (sections 20 & 21)

- Exempts marinas from the DRI process in most counties. (sections 20 & 21)
  - However, if the proposed marina or expansion is located within a county defined in section 370.12(2)(f) (13 counties), then any new development or expansion within that county is not exempt from DRI review until those counties adopt a manatee protection plan and incorporate them into their comprehensive plan. Under current law, when the proposed amendment is transmitted to the department, the Florida Fish and Wildlife Conservation Commission will have an opportunity to review and comment.
  - If a county, required to adopt and incorporate a manatee protection plan, has not done so by October 1, 2003, any new development or expansion is exempt from DRI review.

- Exempts airports from the DRI process if it is consistent with the airport master plan in the local comprehensive plan (section 20 & 21)
  - Requires all publicly owned and operated airports in Florida prepare an airport master plan, and any time a site selection study, a "finding of no significant impact," an environmental assessment, an airport master plan or amendment to the airport master plan is requested or sent to a state or federal agency with funding or approval jurisdiction, a copy of the document is simultaneously sent to any city or county with jurisdiction over the airport or any city of county that is located within two miles of the airport. (section 18)

- Exempts petroleum storage facilities that are consistent with an applicable compliant local comprehensive plan or with an applicable compliant comprehensive port master plan from the DRI process. (section 20)

- Exempts designated urban infill areas, or similarly situated areas, from the DRI process. (section 20)

- Exempts developments within sector plans, from the DRI process. (section 20)

- Increases the substantial deviation for multi-use developments to 150 percent. (section 20)

- Increases DRI thresholds by 200% for developments located within a designated Rural Critical Economic Concern area during the duration of the designation. (section 20)

- The parking space threshold for serial performance facilities and the acreage thresholds for retail and service development and office development are repealed. (section 21)

- The threshold for office development is revised by providing that a DRI review must occur for office development of more than 500,000 square feet in counties with a population greater than 1 million. (section 21)

- The threshold for multi-use developments with two more land uses to 175 percent and those developments with three or more land uses to 200 percent. (section 21)

- The two-mile band that provides that "any residential development twenty-five percent of which is located within two (2) miles of a county line shall be treated as if it were located in

the less populous county" is also deleted if there is an interlocal agreement between the affected counties that specify development review standards. (section 21)

- Streamlines the substantial deviation process for DRIs by:
  - eliminating the rebuttable presumption (provides a bright line that if a change is less than 100 percent, it is not a substantial deviation; if at or over 100 percent, then the change is a substantial deviation);
  - clarifying that the 45 day review period and requirement for written comments on proposed changes also apply to simultaneous increases and decreases in approved land uses;
  - making any change, which, cumulatively with prior changes, is less than 7 years of buildout extension, conclusively not a substantial deviation;
  - eliminating requirement to submit notice of proposed change to the state land planning agency; and
  - replacing DRI annual reports with biennial reports, unless otherwise specified in the development order. (section 20)

- Provides vesting language. (sections 21 & 23)
  - Provides that vested rights, duties or obligations under a development order are not abridged or modified due to this act's removal of that type of development from the DRI process or by the repeal in 2005.
  - Marinas, airports, and petroleum storage facilities currently developed under a development order, or those developing under a development order at the time of the repeal in 2005, are required to continue to abide by the terms of the development order.
  - In addition, the bill allows any current DRI application for a marina, airport, or petroleum storage facility, or any current DRI application at the time of repeal in 2005, development to continue to be reviewed upon an election for review.

- Directs the Legislative Committee on Intergovernmental Relations to perform a study on potential alternatives to the DRI process, including its non-replacement, by September 1, 2003. (section 24)

RURAL ISSUES

- Provides a sustainable rural policy statement. (section 11)
  - There is a direct relationship between land values and agricultural production viability, as the agricultural economy is land rich and cash poor. Due to land use policies, underlying development rights have been decreased.
  - Further involuntary reduction of intensities and densities of rural lands is inconsistent with this policy and should not occur.
  - The fundamental objectives of this policy are to restore rural land values, enhance landowner's ability to obtain economic value from their lands, and to protect private property rights.

- Authorizes DCA to allow up to five local governments to adopt rural land stewardship areas (RLSAs). (section 4)
  - Innovative planning and development strategies are to be used in these areas.
  - Provides for the designation of rural land stewardship areas by certain local governments by DCA.

- Within these areas, land use credits are provided for innovative planning and development strategies.
- Lands (predominately rural) that are suitable for innovative planning and development strategies, are specified for a rural land stewardship area.
- These RLSAs are to be located outside of the urban fringe of municipalities and established urban growth areas.
- They are adopted by plan amendment, which provides:
    - Criteria for the identification of receiving areas within RLSAs.
    - Criteria for the implementation of innovative development strategies applied within the receiving areas.
    - A process that encourages visioning and ensures that innovative development strategies comply with state/regional/local plans and development regulations.
    - The control of sprawl through growth patterns based on innovative development strategies.
- Landowners within a RLSA may convey development rights in return for the assignment of transferable credits (known as "transferable rural land use credits").
    - These credits may only be applied for the purpose of implementing innovative development strategies within the RLSA.
    - The amount of assigned credits corresponds to the 25-year or greater projected population area or projected buildout of the RLSA.
    - These credits may be assigned at different ratios of credits per acre to reflect land use, with the highest number of credits per acre assigned to preserve environmentally valuable land.
    - These credits may only be assigned to parcels of land within the RLSA, and cease to exist if the land is removed from the RLSA or the traditional density allocations on the parcel of land are conveyed or utilized.
    - These credits may only be used within the designated receiving areas located within the RLSA.
    - Upon the conveyance of the credits, the traditional density allocations on the parcel of land are eliminated.
    - In addition, as long as the parcel of land remains in a RLSA, the traditional density allocations on the parcel of land may not be increased or decreased.
    - The only way to increase density or use is when the zoning is reflective of the received credits or the removal from the RLSA by plan amendment.
    - Upon the conveyance or use of the credits, the action is recorded in the county clerk of court office within the RLSA.

- In addition, this section provides that landowners outside the RLSA designated receiving area should be given incentives to enter into Rural Land Stewardship Agreements with various levels of government to achieve agreed upon conservation objectives. Several examples of types of incentives are provided.

- Allows schools to be located in agricultural lands in rural counties under a local comprehensive plan if it is consistent with the local comprehensive plan or school-siting plan. (section 4)

URBAN ISSUES

- Makes it easier to develop in urban infill areas, and other similar areas, by exempting developments within these areas from the DRI process. (section 20)

- Increases the allowed small-scale amendments from these areas from 10 acres to 20 acres. (section 8)
- Exempts urban infill areas; urban redevelopment; downtown revitalization; or urban infill and redevelopment under s. 163.2517 from transportation concurrency requirements. (section 5)
    - Requires local governments to establish guidelines for designating these areas, which include the consideration of impacts on the Florida Intrastate System.
- Requires DCA to compile an annual document with all revitalization tools, grants and programs. (section 2)

INFRASTRUCTURE FUNDING OPTIONS

- Increases to 1.5, the maximum combined rate for counties that levy the small county surtax, to also levy the local infrastructure surtax. (section 16)

- Authorizes a municipality to levy a local option infrastructure surtax, which must receive referendum approval, in the amount of 0.5 percent. The municipality does not have this authority if the county it is in is levying a local option infrastructure surtax in excess of 0.5 percent. If a county decides to levy the surtax after the municipality levies 0.5 percent, then the county may only levy 0.5 percent. (section 16)

- Creates the Florida Local Government Infrastructure Financing Corporation as of January 1, 2003. This is a nonprofit public benefits corporation established to provide loans to local governments as part of the local government infrastructure assistance program. The corporation's duties and powers, including the power to bond, are described. (sections 12 & 13)

    - These loans may be used for: public education facilities; joint use facilities; revitalizing existing infrastructure within a downtown business center; or provide funds to expedite county or municipal infrastructure projects.
    - Priority for these loans is given to local governments with a sustainable community, an urban infill area, an urban revitalization area, or a blighted area. In addition, priority is given to those local governments that expend a certain amount of its budget on infrastructure projects; those local governments that currently levy the maximum ad valorem millage rate allowed; those local governments that are matching the loan with local funds; those local governments where the ratio of constitutional officers expenses is greater than 75 percent or greater of the local government's budget; and those local governments that expend 30 percent of their budget on infrastructure needs. DCA is required to adopt a priority system by rule.
    - This loan program is funded by two sources of revenue: the current 7 percent general revenue service charge on local option fuel taxes and 25 percent of the non-recurring intangible tax (intangible tax part C). These funds will be transferred to the Florida Local Government Infrastructure Revolving Loan Trust Fund beginning on June 1, 2003. These revenues generate approximately $100 million a year. (sections 15, 16, 17, & 19))

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this bill may be cited as the "Communities for Tomorrow Act."

Section 2: Creates s. 163.2524, F.S., and requires DCA to compile an annual manual, to be posted on the internet, that lists revitalization tools, resources, training and programs.

Section 3: Amends s. 163.3164(6), F.S., by incorporating into definition of "development" for purposes of the Local Government Comprehensive Planning and Land Development Regulation Act the text of s. 380.04, F.S. Currently, the definition of "develoment" in s. 163.3164, F.S., cites to s. 380.04, F.S. for the meaning given to the term in that section; this amendment puts that language directly in the section.

Section 4: Revises s. 163.3177, F.S., which provides for the required and optional elements of a local comprehensive plan.

- Provides that an agricultural land use category may be eligible for school siting in rural counties, as defined with a population of less than 75,000, provided that the local government has school siting criteria or the applicable land use category is amended by comp plan amendment.
- Specifies lands (predominately rural) that are suitable for innovative planning and development strategies, in a Rural Land Stewardship Area. This section allows up to five local governments to adopt rural land stewardship areas (RLSAs), in which innovative planning and development strategies are used. These RLSAs are to be located outside of the urban fringe of municipalities and established urban growth areas. They are adopted by plan amendment, which provides:
  - Criteria for the identification of receiving areas within RLSAs.
  - Criteria for the implementation of innovative development strategies applied within the receiving areas.
  - A process, which encourages visioning and ensures that innovative development strategies comply with state/regional/local plans and development regulations.
  - The control of sprawl through growth patterns based on innovative development strategies.

  Landowners within a RLSA may convey development rights in return for the assignment of transferable credits (known as "transferable rural land use credits"). These credits may only be applied for the purpose of implementing innovative development strategies within the RLSA. The amount of assigned credits corresponds to the 25-year or greater projected population area or projected buildout of the RLSA. These credits may be assigned at different ratios of credits per acre to reflect land use, with the highest number of credits per acre assigned to preserve environmentally valuable land. These credits may only be assigned to parcels of land within the RLSA, and cease to exist if the land is removed from the RLSA or the traditional density allocations on the parcel of land are conveyed or utilized. These credits may only be used within the designated receiving areas located within the RLSA. Upon the conveyance of the credits, the traditional density allocations on the parcel of land are eliminated. In addition, as long as the parcel of land remains in a RLSA, the traditional density allocations on the parcel of land may not be increased or decreased. The only way to increase density or use is when the zoning is reflective of the received credits or the removal from the RLSA by plan amendment. Upon the conveyance or use of the credits, the action is recorded in the county clerk of court office within the RLSA.

  In addition, this section provides that landowners outside the RLSA designated receiving area should be given incentives to enter into Rural Land Stewardship Agreements with various levels of government to achieve agreed upon conservation objectives. Several examples of types of incentives are provided.

  Provides that the purpose of RLSAs is to further the following rural sustainability principles: restoration and maintenance of rural land economic value; urban sprawl control;

identification and protection of ecosystems and natural resources; rural economic development promotion; maintenance of agricultural economy viability; and rural character protection. To be considered, a local government must request the designation in writing and explain its reasons for applying. To be eligible, a local government must have, or intend to, establish a rural land stewardship area and demonstrate its financial and administrative capabilities to implement the designation. A local government is designated by written agreement, which includes the basis for designation, any necessary conditions, and success criteria. A local government may be de-designated if it is not meeting the designation agreement terms. On an annual basis, DCA must provide a report to the Legislature regarding the RLSAs. This section also provides that the Legislature intends that the success of RLSAs be shown prior to implementation on a statewide basis.

Section 5: Amends s. 163.3180, F.S., dealing with concurrency, by requiring local governments to grant an exception to the transportation facilities concurrency requirement to a development that is located within one of the following designated areas: urban infill; urban redevelopment; downtown revitalization; or urban infill and redevelopment under s. 163.2517, F.S. This section provides that local governments shall establish guidelines for designating these areas, which include the consideration of impacts on the Florida Intrastate System.

Section 6: Amends s. 163.3181, F.S., dealing with public participation in the comprehensive planning process.

- Declares that public participation in the comprehensive planning process and land use decision process should occur as early as possible. This section clarifies that broad dissemination of information should occur prior to and during the consideration of proposed plan amendments and development orders requiring a public hearing.
- Requires local governments to include in their citizen participation procedures, a requirement that a user-friendly public notice be given within 15 days after submitting the application. In addition, this section requires that formal public notice clearly identify, in plain language, the nature of the amendment or application.
- Requires local governments to include in their citizen participation procedures, a conspicuous on-site sign requirement for all site-specific future land use map amendments that require a public hearing.
  - Local governments determine the required information.
  - The costs of any sign are borne by the applicant.
- Requires local governments to include in their citizen participation procedures, a citizen involvement plan requirement for all comprehensive plan amendments and land use proposals.
  - At the time of application, the applicant must articulate their citizen involvement plan.
  - DCA may develop technical assistance documents.
- Requires DCA to develop best-management practices to increase citizen involvement and help local governments achieve public participation goals.
  - These practices shall: encourage plain language in notices; encourage development of citizen involvement plans; and recommend non-traditional forms of notice.

Section 7: Amends s. 163.3184, F.S., dealing with comprehensive plan/plan amendment adoption process.

- Increases standing to challenge a plan/plan amendment to include those real property owners abutting real property, which is the subject of a proposed change to a future land use map.

- Effective October 1, 2001, this section streamlines the comprehensive plan/plan amendment process by:
  - Removing the timing disincentive for local governments to request a waiver of DCA's amendment review by reducing the review time frames from 90 days to 60 days. The time-frames for a request to review the amendment by the regional planning council or an affected person (30 days after transmittal by the local government) are made substantially the same as the time-frames for comments by state agencies and the regional planning councils (30 days after receipt by DCA). Currently, these time frames are cumulative for a total of 60 days. Local government may request a review at the time of transmittal of the amendment rather than 30 days after transmittal.
  - Local governments send the amendment package directly to all review agencies at the time of transmittal of the amendment to DCA.
  - State agencies and regional planning councils may review the amendment within the initial 30 days after receipt by DCA. DCA administrative rules allow 5 days for DCA to determine the amendment package is complete, verify the amendment has been sent to the appropriate agencies for review, and set the deadline for the 30-day agency review comments.
  - DCA has 35 days after receipt of the amendment to notify the local government of its decision to review the amendment. This allows time (5 additional days) for receipt of a request for review and to consider agency comments in the agency's decision to review.
  - DCA has 30 days after receipt of the agency comments to issue its Objections, Recommendations and Comments report to the local government for a total of 60 days from receipt of the amendment by DCA.
- Effective October 1, 2001, this section revises requirements relating to publication of its notice of intent by the Department of Community Affairs in the following manner:
  - DCA publishes a Notice of Intent (for both “in” and “not in” amendments) in the legal notice or classified ad portion of the newspaper, with no special requirements for the size of the ad or the size of the type.
  - At the proposed and adoption public hearings (and between these two hearings), the local government must have a sign-in form for affected persons. Persons who may wish to challenge an amendment may receive a courtesy informational statement by providing their name and address to the local government. The local government includes the list of all such persons with the adoption package that is transmitted to DCA. DCA sends a postcard or a short letter to each person, informing him or her that the Notice of Intent is about to appear in the newspaper.
  - DCA is authorized to provide a model for the sign-in form.
  - DCA also posts the Notice of Intent on the DCA internet site.
  - Local governments that have an internet site are required to post the agency’s notice of intent within 5 days of receipt of mailed copy of agency’s notice of intent.
  - The 21 days to challenge runs from the date of publication, and is not based upon the date of receipt of the postcard or the date of appearance on the DCA internet site. The present statutory requirement that affected persons establish standing through written or oral comments to the local government during the adoption process, is retained.
- Provides that if a local government does not receive a timely objection, a comprehensive plan amendment will not be reviewed by DCA for compliance. Local governments are still required to hold transmittal and adoption hearings. However, upon certification by the local government that no timely objections were received and that the adopted amendment has not been revised, then DCA shall not further review it.
- Requires priority review for comprehensive plan amendments for rural communities, which address economic development, etc.

Section 8: Amends s. 163.3187, F.S., dealing with comprehensive plan amendments:

- Increases the cumulative annual effect threshold to 150 acres for all local governments, with the exception of consolidated governments and those local governments without any specified designated areas;
- Allows small-scale amendments of 20 acres or less if located within specified areas such as urban infill areas and other similarly situated areas;
- Also sets the cumulative annual threshold at 200 acres for the Jacksonville/Duval County consolidated government, allowing the thresholds for both a county and municipality to apply up to 200 acres; and
- Eliminates the residential density limitation of 10 units per acre or less, except for residential development within the coastal high hazard area.

Section 9: Amends s. 163.3215, F.S., dealing with the enforcement of comprehensive plans through development orders:

- Provides for a uniform proceeding to address challenges to a development order's consistency with the comprehensive plan and challenges to a development order's consistency with the land development regulations. By combining plan and regulation consistency challenges into the one new action, the right to seek other declaratory relief, including declarations of unconstitutionality, in independent and separate actions as allowed by current law, is not abolished.
- Allows local governments to establish a special master process to address quasi-judicial proceedings associated with development order challenges, by adoption of a local ordinance. The ordinance must include the following minimum provisions:
  - notice by publication and by mailed notice to other property owners as required by law simultaneous with the filing of application for development review, excluding building permits. The notice must tell people how to initiate the quasi-judicial process and the timeframes for doing so. The request for a special master need not be a full-blown petition or complaint. The local government shall include an opportunity for an alternative dispute resolution process and may include a stay of the formal hearing for this purpose;
  - an opportunity to participate in the process for an aggrieved or adversely affected party which provides a reasonable time to prepare and present a case;
  - an opportunity for reasonable discovery prior to a quasi-judicial hearing;
  - a hearing before an independent special master who shall be an attorney with at least five years experience and who shall, at conclusion of the hearing, recommend written findings of fact and conclusions of law;
  - at the hearing, all parties have the opportunity to respond, present evidence and argument on all issues involved and to conduct cross-examination and submit rebuttal evidence;
  - the standard of review applied by the special master shall be in accordance with Florida law;
  - a hearing before the local government that shall be bound by the special master's findings of fact unless the findings of fact were not based on competent substantial evidence. The governing body may modify conclusions of law. Provided, however, that the governing body shall be authorized to correct a misinterpretation of the local government's comprehensive plan or land development regulations without regard to whether the misinterpretation is labeled as a finding of fact or a conclusion of law; and
  - no ex parte communication relating to the merits of the matter under review shall be made to the special master. No ex parte communication relating to the merits of the matter under review shall be made to the governing body after a time to be established by local ordinance, but no later than receipt of the recommended order by the governing body.

- The standard of review and burden of proof is in accordance with Florida law.
- Upon adoption of the ordinance with the minimum provisions for a special master process, there is certiorari review at the Circuit Court level of final action of any development order. This action must be filed by petition of certiorari within 30 days of the rendition of the final development order or local government written decision.
- Any determination made by the Circuit Court is binding upon the parties in any subsequent litigation involving the same facts and issues.
- A local government may elect not to use the Special Master Process. If no special master process ordinance is adopted, there is de novo review, for all parties, at the Circuit Court level of final action of any development order.
- Regardless of whether a local government uses the Special Master Process, the verified complaint provisions of s. 163.3215, F.S., is deleted and the time schedule in s. 163.3215(4), F.S., is moved to another section.

Section 10: Aends s. 163.3244, F.S., providing for the sustainable communities demonstration project:

- Revises the sustainable communities demonstration project from a demonstration project to a certification program for any local government eligible under the program. This certification program is for communities that have implemented best planning practices and specific planning or design initiatives.
- The purposes of the certification are to reduce the need for state review of comprehensive plan amendments, and to address extrajurisdicational impacts of development within the certified area and to assume the DRI review authority. In addition, the local government must encourage urban infill and assure the protection of key natural areas and agricultural. In determining whether to certify a local government, DCA must consider the extent that the local government has promoted infill development, affordable housing, intergovernmental relations, economic diversity while maintaining rural character, public transportation, urban design that promotes community identity, blighted areas redevelopment, disaster preparedness programs, clustered development, financial capabilities, and effective comprehensive plan enforcement.
- To become a certified area, a local government must apply to DCA in writing and explain its reasons for applying. In addition, the local government must have an urban development boundary, or its equivalent, that is based on projected needs and adequate data, which encourages urban infill, separate urban and rural uses, discourages urban sprawl, protects key natural areas, and ensures cost-efficient public infrastructure and services.
- A local government is certified by written agreement. This agreement includes the basis for certification, mitigation of extrajurisdictional effects procedures, a five-year work plan, a commitment to enforce its local comprehensive plan, and success criteria.
- A local government may be decertified if it is not meeting the certification agreement terms.
- A certified area receives the following benefits: elimination of state review of certain local comprehensive plan amendments within the certified areas; the assumption of DRI review authority of DCA and the applicable RPC; and priority State infrastructure spending authority.
- Once certified, a progress is required on the first year anniversary of your certification, and then biennially progress reports are required. In addition, certification is for five years, unless revoked. The five-year period may be extended for additional five-year periods if DCA determines that the local government is complying with the agreement terms.
- Those local governments that are already designated as a pilot project have their designations renewed for an additional five-year period, which may be extended.

Section 11: Creates s. 163.32447, F.S., to provide for a sustainable rural policy, which declares:

- The long-term value of retaining rural lands and its uses are essential to Florida's future.
- There is increasing pressure to develop rural lands and the current system is not controlling the conversion of this land.
- Florida needs a rural policy that addresses development pressures and unique rural characteristics and needs, as growth in rural areas will continue.
- Growth in rural areas should implement innovative planning strategies that cluster development and provide ample open space for agriculture, recreation, and natural resource protection.
- There is a direct relationship between land values and agricultural production viability, as the agricultural economy is land rich and cash poor. Due to land use policies, underlying development rights have been decreased.
- The fundamental objectives of this policy are to restore rural land values, enhance landowner's ability to obtain economic value from their lands, and to protect private property rights.
- Further involuntary reduction of intensities and densities of rural lands is inconsistent with this policy and should not occur.
- To effectuate these policies, the Legislature, by June 1, 2003, must establish a Rural Florida program.

Section 12: Creates s. 163.325, effective October 1, 2003, providing for a local government infrastructure financial assistance program. The purpose of this program is to facilitate existing funds for local infrastructure needs through a local government infrastructure loan program. These loans may be used for: public education facilities; joint use facilities; revitalizing existing infrastructure within a downtown business center; or provide funds to expedite county or municipal infrastructure projects.

- Priority for these loans is given to local governments with a sustainable community, an urban infill area, an urban revitalization area, or a blighted area. In addition, priority is given to those local governments that expend a certain amount of its budget on infrastructure projects; those local governments that currently levy the maximum ad valorem millage rate allowed; those local governments that are matching the loan with local funds; those local governments where the ratio of constitutional officers expenses is greater than 75 percent or greater of the local government's budget; and those local governments where more than 30 percent of there revenues are allocated to infrastructure needs. DCA is required to adopt a priority system by rule.
- DCA administers the program through funds secured by the Florida Local Government Infrastructure Financing Corporation.
- Fifteen percent of yearly available funding must be administered to small communities.
- DCA is required to prepare an annual report details amount loaned, interest earned, and outstanding loans.
- Prior to receiving loans, local governments are required to satisfy requirements such as submitting evidence of credit worthiness, acceptable record keeping and identify revenues for repayment.
- A "Local Government Infrastructure Revolving Loan Trust Fund" must be established by January 1, 2003 to carry out the purposes of this program. The reinvestment of any funds not immediately needed is authorized. Investment earnings are reinvested in the trust fund, as well as the principle and interest payments of the loans.
- The administration of this program is paid by reasonable service fees that may be imposed upon loans and from the proceeds from the sale of loans.
- DCA may obligate any trust fund monies to payment under any service contract, subject to a annual appropriation.

- The trust fund is exempt from termination requirements.
- DCA is authorized to adopt rules regarding administering the program, including criteria for eligibility, project priorities, and financial assistance agreement conditions.

Section 13: Creates s. 163.3251, F.S., effective October 1, 2003, providing for the Florida Local Government Infrastructure Financing Corporation (Corporation). This is a nonprofit public benefit corporation created for the purpose of financing the local government infrastructure financing program.

- Declares that the projects and activities authorized are for a public governmental purpose and are necessary for the health, safety and welfare of all residents.
- Authorizes the corporation only for the limited purpose of assisting DCA with the implementation of the local government financing program. All other activities are the responsibility of DCA.
- Terminates the corporation upon fulfillment of its purposes.
- Provides that the Corporation is governed by a board of directors consisting of the Governor's budget director, the CFO, DCA secretary, or their designees. The SBA's executive director is the CEO of the Corporation. The CEO directs and supervises the Corporation's administrative affairs and operation.
- Provides the corporation with the following powers:
    - Adopt, amend and repeal bylaws;
    - Sue and be sued;
    - Adopt and use a common seal;
    - Acquire, hold, convey, etc. any real and personal property;
    - Elect, appoint and employ necessary officers, agents and employees.
    - Borrow money and issue notes, bonds or other obligations or evidence of indebtedness;
    - Operate any program to provide financial assistance;
    - Sell loans, partially or totally;
    - Make and execute contracts, and other instruments and agreements;
    - Select and retain professionals, including the Division of Bond Finance; and
    - Any other necessary act.
- Authorizes the Corporation to evaluate market conditions in order to make prudent and cost effective decisions.
- Authorizes the Corporation to enter into service contracts with DCA to provide services to DCA in connection with the loan program. Any obligation of DCA under the service contracts are not a general obligation of the state or a pledge of the full faith and credit of the state. Any service contract must have a statement that the state's performance and obligation to pay is contingent upon an annual appropriation.
- Authorizes the Corporation to issue and incur notes, bonds, certificates of indebtedness, and any other obligation payment from and secured by loan repayment funds. The bond proceeds may be used to fund infrastructure projects and refunding previously issued bonds.
- Exempts the Corporation from taxation ands assessments.
- Requires the Corporation to validate bonds pursuant to ch. 75, F.S.
- Prohibits the DCA and the Corporation prohibited from taking any action that materially alters holders of any obligations rights.
- Authorizes the Auditor General to conduct financial audits of the Corporations records and accounts.

Section 14: Amends s. 189.415, F.S., to reflect the revision to biennial reports required by ch. 380, F.S.

Section 15: Amends s. 199.292, effective June 1, 2003, by providing that 25 percent of the intangible nonrecurring tax revenues are transferred to the Local Government Infrastructure Revolving Loan Trust Fund.

Section 16: Amends s. 212.055, F.S, relating to discretionary sales surtaxes.

- Allows a small county that levies a local option small county surtax to levy a local option infrastructure surtax at a combined rate of 1.5 percent. If a small county is currently levying the local option infrastructure surtax and wishes to levy up to a combined rate of 1.5 percent, it may do so as long as the local option small county surtax is approved at referendum.
- Authorizes a municipality to levy a local option infrastructure surtax, which must receive referendum approval, in the amount of 0.5 percent. The municipality does not have this authority if the county it is in is levying a local option infrastructure surtax in excess of 0.5 percent. If a county decides to levy the surtax after the municipality levies 0.5 percent, then the county may only levy 0.5 percent.

Section 17: Amends s. 215.211(3), F.S., relating to the application of a service charge against certain income into identified agency trust funds. This amendment accelerates the repeal of the current 7 percent general revenue service charge against local option fuel taxes distributed under s. 336.0258, F.S., from July 1, 2006 to June 1, 2003.

Section 18: Creates s. 333.06 (4), F. S., dealing with airport zoning requirements. Requires all publicly owned and operated airports in Florida prepare an airport master plan, and any time a site selection study, a "finding of no significant impact," an environmental assessment, an airport master plan or amendment to the airport master plan is requested or sent to a state or federal agency with funding or approval jurisdiction, a copy of the document is simultaneously sent to any city or county with jurisdiction over the airport or any city of county that is located within two miles of the airport.

Section 19: Amends s. 336.021, F.S., effective June 1, 2003, dealing with county local option fuel taxes. Requires the Department of Revenue to transfer 7 percent of the revenues from the county local option fuel tax to the Local Government Infrastructure Revolving Loan Trust Fund.

Section 20: Amends s. 380.06, F.S., dealing with developments of regional impact.

- Streamlines the substantial deviation process for DRIs by:
  - Making any change, which, cumulatively, with prior changes, is less than 100 percent of the numerical thresholds, conclusively not a substantial deviation (eliminates rebuttable presumption).
  - Increasing the substantial deviation criterion for a multi use DRI from 100 percent to 150 percent [Note: Since this criterion is also used in determining when a project is "essentially built-out", another reference in the bill is changed]
  - Clarifying that the 45 day review period and requirement for written comments on proposed changes also apply to simultaneous increases and decreases in approved land uses.
  - Making any change, which, cumulatively, with prior changes, is less than 7 years of build-out extension, conclusively not a substantial deviation.

- Eliminating requirement to submit a NOPC (notice of proposed change) to the state land planning agency, unless the local government or the regional planning agency determines that the proposed change does not fall under this category and requests that the state land planning agency review the proposed changes and allows DCA to maintain appeal authority if the change is not consistent with specific provisions.
- Replacing DRI annual reports with biennial reports, unless otherwise specified in the development order. If no development has occurred since the submittal of the previous report, allow the developer to submit a letter of no development to satisfy the report requirement.

- Increases DRI thresholds by 200% for developments located within a designated Rural Critical Economic Concern area during the duration of the designation.
- Provides that any proposed change to a development order that individually or cumulatively is less than sixty percent of a numerical criterion and does not exceed any other criterion, is not a substantial deviation.
- Eliminates substantial deviation thresholds for: airports, petroleum storage facilities, and marinas.
- Increases the substantial deviation for multi-use developments to 150 percent.
- Exempts from the DRI review process the following:
  - Petroleum storage facilities that are consistent with an applicable compliant local comprehensive plan or with an applicable compliant comprehensive port master plan.
  - Marinas, or expansions of existing marinas in most counties. However, if the proposed marina or expansion is located within a county defined in s. 370.12(2)(f), F.S., (13 counties), then those counties are required to adopt a manatee protection plan and incorporate them into their comprehensive plan. Under current law, when the proposed amendment is transmitted to the department, the Florida Fish and Wildlife Conservation Commission will have an opportunity to review and comment. Any new development or expansion within that county is not exempt from DRI review unless a manatee protection plan has been adopted by the county. If a county, required to adopt a manatee protection plan, has not done so by October 1, 2003, any new development or expansion is exempt from DRI review.
  - Any development located within a sector plan pursuant to the Optional Sector Plan demonstration project.
  - Airports, or expansions of existing airports, that are consistent with sections 163.3177(6)(j) and (k), F.S., (dealing with the integration of a airport master plan into the local comprehensive plan).
  - Any development or expansion located within an area designated in the local comprehensive plan as: urban infill development, urban redevelopment, downtown revitalization, or urban infill and redevelopment pursuant to section 163.2517, F.S. However, such development may not be located within a coastal high-hazard area.
- Repeals s. 380.06, F.S., on June 1, 2005.

Section 21: Amends s. 380.0651, F.S., dealing with DRI statewide guidelines and standards:

- Repeals requirements to undergo DRI review for airports and marinas.
- Repeals the parking space threshold for serial performance facilities.
- Repeals the acreage threshold for retail and service development and office development.
- Increases the threshold for multi-use developments with two more land uses to 175 percent and those developments with three or more land uses to 200 percent.
- Deletes the two-mile band that provides that "any residential development twenty-five percent of which is located within two (2) miles of a county line shall be treated as if it were

located in the less populous county" if there is an interlocal agreement between the affected counties that specify development review standards.

- Revises the threshold for office development by providing that a DRI review must occur for office development of more than 500,000 square feet in counties with a population greater than 1 million.
- Repeals section 380.0651, F.S., on June 1, 2005.
- Provides that vested rights, duties or obligations under a development order are not abridged or modified due to this act's repeal of the DRI process in 2005. Developments that are currently developed under a development order at the time of repeal, are required to continue to abide by the terms of the development order. In addition, this section allows any current DRI application, at the time of repeal, to continue to be reviewed upon an election for review.

Section 22: Amends s. 331.303, F.S., to correct a cross-reference.

Section 23: Provides that vested rights, duties or obligations under a development order are not abridged or modified due to this act's removal of that type of development from the DRI process. Marinas, airports, and petroleum storage facilities currently developed under a development order are required to continue to abide by the terms of the development order. In addition, the bill allows any current DRI application for a marina, airport, or petroleum storage facility to continue to be reviewed upon an election for review.

Section 24: Directs the Legislative Committee on Intergovernmental Relations to perform a study on potential alternatives to the DRI process, including its non-replacement, and submit a report to the Legislative Officers by September 1, 2003.

Section 25: States that this act is effective upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

This bill decreases expenditures for the Department of Community Affairs due to the revisions to the publication of notice of intent requirements. In addition, with the department no longer reviewing as many comprehensive plan amendments due to the expansion of the sustainable communities project and revised qualifications of a small scale amendment, staffing expenditures for the department should decrease.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Some local governments may experience increased revenues, if approved by voters.

2. Expenditures:

Local governments may experience reduced expenditures due to the revised qualifications relating to small scale amendments and the revisions to the judicial review of development order challenges. Also, those communities certified under the sustainable communities program should experience reduced expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The private sector benefits may be experienced as a result of urban infill in cities providing housing and schools nearer workplaces. The private sector interests are positively impacted by the revisions to the judicial review of challenged development orders as the review is now a certiorari rather than a de novo review. This change grants the same opportunity (de novo review) to all parties involved.

Citizens are positively impacted by this bill as it allows for earlier citizen involvement in the process. Local governments are required to include in their citizen participation procedures several requirements that improve the current citizen participation requirements. Citizens should also benefit from DCA's development of best-management practices to increase citizen involvement and help local governments achieve public participation goals. Finally, citizens are benefited by the increase in standing, which allows real property owners abutting real property, the subject of which is a proposed change to a future land use map, to have the right to challenge the proposed change.

The development community may be positively impacted by this bill regarding the streamlining provisions relating to comprehensive plan amendments and substantial deviations. These changes decrease the time it takes to have amendments approved, thus saving the development community time and money. In addition, future development projects or expansions, which would currently be subject to a DRI review, would be, under this bill, exempt from those provisions, thus saving money and time.

Rural lands may benefit by having a stated policy to protect land while allowing some economic incentives.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This 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:

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

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill requires that DCA adopt a model form for the new publication of notice of intent by rule.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its April 3, 2001 meeting, amended and adopted its proposed committee bill LGVA 01-02. The following amendments to the proposed committee bill were offered:

AMENDMENT #1 by Sorensen – This amendment was a strike-everything amendment to the proposed committee bill. The differences between the proposed committee bill and the amendment are:

- TRANSPORTATION EXCEPTION -- The amendment clarifies the applicable circumstances requiring an exception to the transportation concurrency (i.e. for urban infill areas, etc.), and maintains the current law that provides for a discretionary exception for projects that are consistent with the comprehensive plan and that promote public transportation.
  - Reinserts guidelines for granting exception areas (i.e. urban infill, etc.), which must consider impacts on the Florida Highway Intrastate System. The proposed PCB removed the guidelines and the consideration of impacts on the Florida Highway Intrastate System.

- SUSTAINABLE COMMUNITIES – The criteria for being certified as a sustainable community is replaced. Current statutory criteria language remains in place. The proposed PCB removed these criteria.
  - The amendment revises reporting requirements to provide that a certified local government must submit a report on the first anniversary of its certification, and thereafter, submits a biennial report. This means that a certified local government will report in its first, third and fifth year. The proposed PCB only provided for biennial reports.
  - Extends the program of those communities designated as a sustainable community under the demonstration project.

- NOTICE OF INTENT – The amendment provides that if a local government has Internet capability, then it must post the department's notice of intent within 10 days of receipt of the mailed copy. The proposed PCB did not provide for this and only required the department to post the notice of intent on its web site.
  - The amendment revises the effective date for the revised publication of notice of intent to October 1, 2001. This allows the department adequate time to develop a model sign-in form, and for the department and local governments to implement the new procedures.
  - The amendment removes the requirement, in the proposed PCB, that the department adopt the model sign-in form by rule.

- COMPREHENSIVE PLAN PILOT PROJECT – The amendment eliminates the proposed pilot project and rather provides that if a local government does not receive a timely objection, a comprehensive plan amendment will not be reviewed by DCA for compliance. Local governments are still required to hold transmittal and adoption hearings. However, upon certification by the local government that no timely objections were received and that the adopted amendment has not been revised, then DCA shall not further review it.

- RURAL ISSUES – The amendment eliminates the Sustainable Rural Communities demonstration project. Rather it declares that in order to effectuate the provisions of the rural policy, the Legislature should establish a Sustainable Rural Florida program by June 1, 2003.
  - The amendment incorporates some of the demonstration project provisions into the innovative planning section that authorizes local governments to create a rural land stewardship area.
  - The amendment clarifies that DCA may authorize up to five local governments to create a rural land stewardship area. It also provides additional criteria to be used by DCA in determining which local governments to authorize; and for a written agreement between the local government and DCA. The amendment also provides for the revocation of the authorization.
  - The amendment also revises some of the rural policy provisions.

- SMALL COUNTY SURTAX – The amendment clarifies that a local government that wants to levy additional small county surtax to the increased 1.5 percent combined rate, must do so by referendum.

- FLORIDA LOCAL GOVERNMENT INFRASTRUCTURE LOAN PROGRAM – The amendment creates the Florida Local Government Infrastructure Financing Corporation as of January 1, 2003. This is a nonprofit public benefits corporation established to provide loans to local governments. The corporation's duties and powers, including the power to bond, are described.
  - These loans may be used for: public education facilities; joint use facilities; revitalizing existing infrastructure within a downtown business center; or providing funds to expedite county or municipal infrastructure projects.
  - Priority for these loans is given to local governments with a sustainable community, an urban infill area, an urban revitalization area, or a blighted area. In addition, priority is given to those local governments that expend a certain amount of its budget on infrastructure projects; those local governments that currently levy the maximum ad valorem millage rate allowed; those local governments that are matching the loan with local funds; and those local governments where the ratio of constitutional officers expenses is greater than 75 percent or greater of the local government's budget. DCA is required to adopt a priority system by rule.
  - This loan program is funded by two sources of revenue: the current 7 percent general revenue service charge on local option fuel taxes and 25 percent of the non-recurring intangible tax (intangible tax part C). These funds will be transferred to the Florida Local Government Infrastructure Revolving Loan Trust Fund beginning on June 1, 2003. These revenues generate approximately $100 million a year.
  - These funding provisions were not in the proposed PCB.

- DEVELOPMENTS OF REGIONAL IMPACT – The amendment makes the following revisions to the DRI process:

  - The amendment directs the Legislative Committee on Intergovernmental Relations to perform a study on potential alternatives to the DRI process, including its non-replacement, by September 1, 2003. The proposed PCB did not provide for this.
  - The amendment revises the provision relating to the adoption of manatee protection plans to require that the 13 counties, required to adopt a manatee protection plan, must incorporate them into their comprehensive plan. Under current law, when the proposed amendment is

transmitted to the department, the Florida Fish and Wildlife Conservation Commission will have an opportunity to review and comment. The proposed PCB did not require the 13 counties to incorporate the manatee protection plan into their comprehensive plan.
- The amendment eliminates the acreage threshold for office development. The proposed PCB did not provide for this.
- The amendment replaces a rebuttable presumption provision with a brightline standard. This creates consistency with other revisions in the proposed PCB.
- The amendment increases the threshold for multi-use developments with two or more land uses to 175 percent and those developments with three or more land uses to 200 percent. This revision increases the percentage over that in the proposed PCB.

- TECHNICAL REVISIONS – The amendment makes several technical revisions.

The following amendments to the strike-everything amendment were offered:

AMENDMENT #2 by Henriquez – The amendment clarifies that an agriculture land use category is eligible for the location of public schools only in rural counties. The amendment defines a rural county as a county with a population of less than 75,000.

AMENDMENT #3 by Gardiner – The amendment deletes the integration of the Airport Master Plan into the local comprehensive plan allowed under a provision in the strike-everything amendment.

AMENDMENT #4 by Greenstein – The amendment deletes the integration of the Airport Master Plan into the local comprehensive plan allowed under a provision in the strike-everything amendment.

AMENDMENT #5 by Henriquez – The amendment eliminates provisions in the strike-everything amendment relating to rural innovative planning and rural land stewardship areas.

AMENDMENT #6 by Henriquez – The amendment is a technical and conforming amendment and removes the reference to “of compelling state interest” as it relates to the protection of natural resources.

AMENDMENT #7 by Gardiner – The amendment is a technical amendment that inserts the word “the.”

AMENDMENT #8 by Gardiner – The amendment is a technical amendment and revises the name of the land use credits from “rural smart growth credits” to “transferable rural land use credits.”

AMENDMENT #9 by Gardiner – The amendment is a technical amendment that reinserts the following deleted language “with the clerk of the circuit court.”

AMENDMENT #10 by Henriquez – The amendment inserts new language regarding the rural land stewardship areas. The amendment requires DCA submit an annual report to the Legislature regarding the results of the rural land stewardship areas. The amendment also requires that, prior to statewide implementation of these areas, the success of these areas must be shown.

AMENDMENT #11 by Betancourt – The amendment eliminates the mandatory transportation concurrency exceptions provided in the strike-everything amendment.

AMENDMENT #12 by Greenstein – The amendment removes a strike-everything amendment provision that provides priority review for comprehensive plan amendments for rural communities, which address economic development, etc.

AMENDMENT #13 by Greenstein – The amendment eliminates all revisions relating to comprehensive plan small-scale amendments, including increasing the cumulative annual effect threshold to 150 acres for all local governments with specified areas, and increasing the acreage allowed for small-scale amendments, located within specified areas such as urban infill areas and other similarly situated areas, from 10 acres to 20 acres.

AMENDMENT #14 by Henriquez -- The amendment removes language in the strike-everything amendment that expands the sustainable communities demonstration project to a certification program. The amendment requires DCA to prepare a final report regarding the success and failures of the project; and requires LCIR to evaluate the implementation of the project statewide.

AMENDMENT #15 by Henriquez – The amendment revises the state rural policy language provided in the strike-everything amendment. The amendment removes strike-everything amendment provisions relating to the unintended consequences of an urban growth management policy and laws. The amendment removes a statement relating to the relationship between land value and the ability of landowners to keep their land; and that value is affected by underlying development value. The amendment also removes the statement that no further involuntary reductions in density should occur. Finally, the amendment removes the intent that this policy be effectuated in a Rural Florida program by June 1, 2003.

AMENDMENT #16 by Gardiner – The amendment is a technical amendment that inserts the word "decrease."

AMENDMENT #17 by Henriquez – The amendment reinserts language relating to the Sustainable Rural Communities demonstration project that the strike-everything amendment removed. The amendment integrates the rural land stewardship areas into the demonstration project. The amendment provides criteria for designation as a demonstration project. The amendment also allows, for demonstration purposes, rural land stewardship areas. The amendment removes the current strike-everything amendment provision that prohibits the increase of density within these areas unless it effectuates received credits or removal from the area. The amendment provides for the repeal of the demonstration project on June 30, 2005, unless extended, and authorizes rural stewardship areas to exist for a ten-year period, unless extended. In addition, the amendment states that the rural land stewardship areas designations are independent of the rural sustainable communities demonstration project.

AMENDMENT #18 by Henriquez – The amendment revises the definition of an enclave to include an unincorporated or developed area enclosed within and bounded by multiple municipalities.

AMENDMENT #19 by Henriquez – The amendment revises and simplifies the annexation procedures of enclaves. Municipalities may annex an enclave, (10 acres or less): by interlocal agreement with the county; by municipal ordinance, approved at referendum by more than 50% of the voters residing in the enclave (currently, this option is only allowed if there are fewer than 25 registered voters); and by municipal ordinance, if the municipality is providing one or more essential municipal services in the enclave (annexed with no vote – new law).

AMENDMENT #20 by Meadows – The amendment authorizes a municipality to levy a local option infrastructure surtax, which must receive referendum approval, in the amount of 0.5 percent. The municipality does not have this authority if the county it is in is levying a local option infrastructure surtax in excess of 0.5 percent. If a county decides to levy the surtax after the municipality levies 0.5 percent, then the county may only levy 0.5 percent.

AMENDMENT #21 by Gardiner – The amendment requires all publicly owned and operated airports in Florida prepare an airport master plan, and any time a site selection study, a "finding of no significant impact," an environmental assessment, an airport master plan or amendment to the airport master plan

is requested or sent to a state or federal agency with funding or approval jurisdiction, a copy of the document is simultaneously sent to any city or county with jurisdiction over the airport or any city of county that is located within two miles of the airport.

AMENDMENT #22 by Greenstein – The amendment eliminates all DRI provisions in the strike-everything amendment, with the exception of the biennial reporting requirements and petroleum storage facilities DRI exemption.

AMENDMENT #23 by Kilmer – The amendment increases DRI thresholds by 200% for developments located within a designated Rural Critical Economic Concern area during the duration of the designation.

AMENDMENT #24 by Gardiner – The amendment eliminates the requirement that an airport master plan be integrated into the comprehensive plan prior to the airport or its expansion being exempt from the DRI process.

The Committee adopted amendments #1, as amended by amendment #s 2, 3, 6, 7, 8, 9, 10, 16, 20, 21, 23 & 24. Amendment #s 4, 11, 12, 13, 14, 18, and 22 failed. Amendment #s 5, 15, 17, and 19 were withdrawn by their sponsors.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:	Staff Director:
Laura Jacobs, Esq.	Joan Highsmith-Smith

AS REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:	Staff Director:
David M. Greenbaum	Hubert "Bo" Bohannon