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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2002-294, Laws of Florida

HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS

BILL #: CS/HB 1341, 2ND ENG.

RELATING TO: Community Redevelopment

SPONSOR(S): Council for Smarter Government; Representatives Dockery; Clarke and others

TIED BILL(S): None.

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

(1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 10 NAYS 0
(2) FISCAL POLICY & RESOURCES YEAS 8 NAYS 1
(3) COUNCIL FOR SMARTER GOVERNMENT YEAS 14 NAYS 0
(4)
(5)

I. SUMMARY:

CS/HB 1341, 2nd ENG., amends the Community Redevelopment Act of 1969 to revise definitions of slum and blight, and to require a local government to adopt a resolution, supported by data and analysis, making a legislative finding that conditions in the area meet the definition of a "slum area" or of a "blighted area" prior to establishing a community redevelopment agency (CRA.). This change deletes lack of affordable housing as an independent condition for which CRAs may be created. The bill establishes a notification process for each taxing authority for the creation or modification of a CRA, and expands the maximum number of commissioners serving on a CRA board from seven to nine. The bill establishes a 40 year time limit for new CRAs, limits the time frame for indebtedness for new CRAs to 40 years, revises statutory provisions governing the exemption of special districts, and requires charter counties to act on a municipality's request relating to the delegation of CRA powers within 120 days.

The bill grandfathers existing CRAs, except if they expand their boundaries, in which case the expanded area must meet the new definitions, and provides that the bill does not apply to any ordinance, resolution, interlocal agreement, or written agreement effective before July 1, 2002, that provides for the delegation of community redevelopment powers. The bill also exempts: any municipality that has authorized a finding of necessity study by May 1, 2002, or has adopted its finding of necessity on or before August 1, 2002, and has adopted its CRA plan on or before December 31, 2002; any municipality that has submitted before August 1, 2002, its finding of necessity, application for approval of a CRA plan, or application to amend an existing CRA plan to a county that has adopted a home rule charter; and Miami-Dade County and its cities from revisions to statutory provisions relating to finding of necessity, contents of a CRA plan, the issuance of revenue bonds, and redevelopment trust funds. The bill includes provisions protecting all existing outstanding debt. The bill extends the Coastal Resort Area Redevelopment Pilot Project until December 2006. The bill also eliminates a local participation requirement for qualified targeted business participation in brownfields redevelopment bonus refunds and replaces an average annual pay requirement for participation in brownfields redevelopment bonus refunds with a benefits requirement.

The fiscal impact on state government and local governments is indeterminate.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes [X]	No []	N/A []
2.	Lower Taxes	Yes []	No []	N/A [X]
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:

B. PRESENT SITUATION:

Community Redevelopment Agencies

Background

In 1969, the Legislature passed the Community Redevelopment Act (Act) to provide a funding mechanism for community redevelopment efforts. Part III of chapter 163, F.S., allows a county or municipality to create a community redevelopment agency (CRA) to carry out redevelopment of slum or blighted areas. CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund utilizing revenues derived from ad valorem tax increment financing.

Creation of Community Redevelopment Agencies

Section 163.355, F.S., prohibits a county or municipality from exercising the powers conferred by the Act until after the governing body has adopted a resolution finding that:

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and,

(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

Section 163.360, F.S., provides:

> Community redevelopment in a community redevelopment area shall not be planned or initiated unless the governing body has, by resolution, determined such area to be a slum area, a blighted area, or an area in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, or a combination thereof, and designated such area as appropriate for community redevelopment.

Section 163.340, F.S., defines "slum area" as follows:

> “Slum area” means an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age, or obsolescence; inadequate provision for ventilation, light, air, sanitation, or open spaces; high density of population and overcrowding; the existence of conditions which endanger life or property by fire or other causes; or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and is detrimental to the public health, safety, morals, or welfare.

"Blighted area" is defined as follows:

> “Blighted area,” means either:
>
> (a) An area in which there are a substantial number of slum, deteriorated, or deteriorating structures and conditions that lead to economic distress or endanger life or property by fire or other causes or one or more of the following factors that substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use:
>
> 1. Predominance of defective or inadequate street layout;
> 2. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
> 3. Unsanitary or unsafe conditions;
> 4. Deterioration of site or other improvements;
> 5. Inadequate and outdated building density patterns;
> 6. Tax or special assessment delinquency exceeding the fair value of the land;
> 7. Inadequate transportation and parking facilities; and
> 8. Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
>
> (b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.
>
> However, for purposes of qualifying for the tax credits authorized in chapter 220, “blighted area” means an area described in paragraph (a).

In addition, subsection (10) defines "community redevelopment area" as follows:

(10) “Community redevelopment area” means a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment.

<u>Community Redevelopment Agency Plans</u>

Each community redevelopment area must have an approved community redevelopment plan in conformance with the local government comprehensive plan. The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.

Redevelopment Trust Funds and Tax Increment Financing

Section 163.387, F.S., provides for the creation of a redevelopment trust fund for each CRA. Funds allocated to and deposited into this fund are used by the CRA to finance any community redevelopment undertaken based on an approved community redevelopment plan. In tax increment financing, property values in a certain defined community redevelopment area are frozen by local ordinance at the assessed value for a particular base year. As redevelopment proceeds within the redevelopment area, the actual assessed value of property within the redevelopment area should increase. Taxing authorities located within the community redevelopment area are required to deposit the incremental revenue received as a result of this increase in property value in a redevelopment trust fund established by the CRA. Section 163.387, F.S., specifically provides that "the annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with undertaking and carrying out of community redevelopment under this part."

Section 163.340(2), F.S., defines "public body" or "taxing authority" to mean the state or any county, municipality, authority, special district as defined in s. 165.031(5), or other public body of the state, except a school district.

Exemptions from Tax Increment Financing

Section 163.387(2)(c), F.S., exempts the following public bodies or taxing authorities created prior to July 1, 1993, from the requirement to deposit incremental revenue into a CRA's redevelopment trust fund:

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district, the sole available source of revenue of which is ad valorem taxes at the time an ordinance is adopted under this section.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069.

In addition, s. 163.387(2)(d), F.S., authorizes a local governing body that creates a community redevelopment agency under s. 163.356 to exempt a special district that levies ad valorem taxes within that community redevelopment area from the requirement to deposit incremental revenue into a CRA's redevelopment trust fund. The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The subsection requires the local governing body to establish procedures by which a special district may submit a written request to be exempted within 120 days after July 1, 1993. The subsection further provides that in deciding whether to deny or grant a special district's request for exemption, the local governing body must consider specified factors.

The subsection requires the local governing body to hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or municipality that created the community redevelopment area. The notice must describe the time, date, place, and purpose of the hearing and must identify generally the community redevelopment area covered by the plan and the impact of the plan on the special district that requested the exemption.

If a local governing body grants an exemption to a special district under this paragraph, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption, including, but not limited to, the period of time for which the exemption is granted. If a local governing body denies a request for exemption by a special district, the local governing body shall provide the special district with a written analysis specifying the rationale for such denial. This written analysis must include specified information. The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to the procedures established by such local governing body.

Community Redevelopment Agency Powers

CRAs are granted those powers "necessary or convenient to carry out and effectuate the purposes of the act." These powers include the power to issue bonds and acquire property by eminent domain, if approved by the governing body that established the CRA. CRAs also are granted the power to undertake and carry out community redevelopment and related activities within the community redevelopment area. Section 163.370(1)(c), F.S., states that this redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses

Conflicts Between Counties and Cities

As indicated above, the Community Redevelopment Act (Act) dates back to 1969, and arose as part of a national urban renewal effort. Initial community redevelopment efforts did not generate substantial tax increment revenues, but in recent years utilization of the Act has increased, as has the amount of tax increment revenues. Since these ad valorem revenues are diverted from other taxing authorities, increases in tax increment revenues have led to growing tensions between local government entities. As an outgrowth to such tension, disputes regarding the Act have increased, particularly where statutory provisions are vague or in situations not addressed by the statutes. In the late 1980s and early 1990's, a major source of conflict was between community redevelopment agencies and special districts. Conflicts between counties and cities are now increasing.

Counties have expressed several concerns with the Act. Charter counties and non-charter counties are treated differently under the Act. Section 163.410, F.S., grants charter counties exclusive authority to exercise the powers of the Act, but allows a charter county to delegate such powers to a municipality. In 1983, chapter 83-29, Laws of Florida, was enacted to provide that the section does not apply to any community redevelopment agency created by a municipality prior to the adoption of a county home rule charter. Non-charter counties are not granted exclusive control over community redevelopment activities.

One concern expressed by charter counties is the expansion in charter counties of existing CRAs -- those created by a municipality prior to the adoption of the county home rule charter. As noted above, section 163.410, F.S., explicitly provides that the section does not apply to CRAs created prior to the adoption of a county home rule charter. The statute does not explicitly address the

issue of expansion of such pre-existing CRAs within charter counties, and no Florida court of review has ruled on this issue.

Additional issues of concern include the process in law to amend or modify an existing community redevelopment plan, the total life span of the community redevelopment trust fund, and the definitions of slum and blight. Section 163.361, F.S., governs the modification of community redevelopment plans, and authorizes CRAs -- both those created by counties and those created by cities -- to modify such plans after public notice and a public hearing. Section 163.361(1), F.S., allows amendments to the redevelopment plan to change the boundaries of a redevelopment area or the development and implementation of community policing innovations. The section places no restrictions on the size of the additions or exclusions. Nor does the section distinguish between modifications to plans in charter and non-charter counties.

Section 163.387, F.S., provides for the establishment of redevelopment trust funds and provides for each taxing authority -- except those exempted -- to appropriate tax increment revenues to the trust fund so long as any indebtedness pledging increment revenues to the payment thereof is outstanding (but not to exceed 30 years). The section also provides that if the community redevelopment plan is amended or modified pursuant to s. 163.361(1), F.S., each taxing authority must make the annual appropriation for a period not to exceed 30 years after the governing body amends the plan. One county has expressed the concern that this section "allows the annual appropriation to the trust fund to run for a period of 30 years after a plan is amended but does not address the issue of the existing trust fund." The statute does not differentiate between the life span of the trust fund prior to the plan amendment and the life span after the plan amendment. Nor does it differentiate between tax increment revenues collected from areas originally in the redevelopment area and those collected from areas added to the redevelopment area. Rather, the section simply states: "If the community redevelopment plan is amended or modified pursuant to s. 163.361(1), each such taxing authority shall make the annual appropriation for a period not to exceed 30 years after the date the governing body amends the plan."

As noted above, counties also have expressed concern with the definitions of "slum" and "blighted." The definition of "blighted area" has been expanded over the years, and the conditions which community redevelopment areas may be created to address have also been expanded to address the lack of affordable housing. Regarding the definition of "blighted area," perhaps the most important expansion occurred with passage of chapter 81-44, Laws of Florida, which added the following language to the definition:

> (b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.

Section 163.355, F.S., relating to finding of necessity, and s. 163.360, F.S., were both amended in 1984 (chapter 84-356, L.O.F.) to add the lack of affordable housing to conditions of slum and blight for which community redevelopment agencies may be created to address. This act also amended the definition of "community redevelopment area" to include an area with a shortage of affordable housing.

Coastal Resort Area Redevelopment Pilot Project

Chapter 98-201, L.O.F., expanded the scope of the Community Redevelopment Act of 1969 to include coastal resort and tourist areas that are deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout. More generally, it expanded the definition of blighted area to add:

- Inadequate and outdated building density patterns to s.163.340(8)(a), F.S., as a factor defining an area as blighted.

- Inadequate transportation and parking facilities to 163.340(8)(a), F.S., which is currently included in the definition of blighted area provided in s. 163.340(8)(b), F.S.

As a result of this change in definition, areas defined as blighted due to either of these two factors qualify for the tax credits authorized in ch. 220, F.S.

In addition, the act provided Legislative intent to undertake a pilot project to determine the feasibility of encouraging redevelopment of economically distressed coastal properties to allow full utilization of existing urban infrastructure. The act directed the Department of Environmental Protection (DEP) to administer a pilot project for redeveloping economically distressed coastal resort and tourist areas. The pilot project is located in the coastal areas of Florida's Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet. For a particular area to be eligible, all or part of the area must be within 1) the coastal building zone as defined by s.161.54, F.S. and 2) an economically deprived area as designated by a local government with jurisdiction over the area. Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot projects.

Construction activities seaward of a coastal construction control line (CCCL) and landward of existing armoring within the area of the pilot projects are exempted from certain coastal construction permitting criteria pursuant to s 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. All applicable local land development regulations continue to apply to such construction.

DEP is authorized to grant the necessary permits to close any gap that does not exceed 100 feet in an existing line of rigid coastal armoring structure. Such structures must not cause flooding of or result in adverse impacts to existing upland structures or properties. In addition, permits are granted where there exists a continuous line of viable rigid coastal armoring structure on either side of a non-viable rigid coastal armoring structure. However, such permitting does not apply to rigid coastal armoring structures constructed after May 1, 1998, unless permitted pursuant to s. 161.085(2), F.S.

Construction projects continue to be reviewed under s. 161.053, F.S., except that structures are not subject to specific shore parallel coverage requirements (e.g., a building located on a 100-foot wide lot being able to exceed 60 feet in width) and are allowed to exceed the 50-percent impervious surface requirement. (Impervious surface is the total surface coverage on a lot that does not allow water to pass through to the ground below, including any structures as well as other impervious surface coverings such as parking lots. This provision allows more than 50 percent of a lot to be covered with impervious surfaces.) Stormwater discharges onto, or seaward, of the frontal dune are specifically prohibited. Structures approved under s.163.336, F.S., shall not cause flooding or result in adverse impacts to existing upland structures or properties.

Structures are not bound by restrictions on excavation if the construction does not adversely impact the existing armoring structure or the existing beach and dune system. The act specifically contemplates that underground structures, including garages, will be permitted. All beach compatible material that is excavated must be maintained on the site seaward of the CCCL.

Authorization for the pilot projects and related provisions expires on December 31, 2002, and are subject to review by the Legislature prior to that date.

Brownfield Redevelopment

The Legislature created the Brownfields Redevelopment Program in 1997. Brownfield sites are abandoned, idled, or underused industrial and commercial properties where expansion or development is complicated by actual or perceived environmental contamination. The Brownfields Redevelopment Program was intended to achieve the following goals:

- Reduce public health and environmental hazards on existing commercial and industrial sites;
- Help prevent the premature development of farmland, open space areas, and natural areas;
- Reduce public costs for installing new water, sewer, and highway infrastructure;
- Encourage responsible persons to implement cleanup plans without the use of taxpayer funds;
- Rehabilitate sites through clear, predictable remediation standards based on the actual risk that contaminated sites pose to the environment and public health;
- Address environmental and health consequences of hazardous sites on minority and poverty populations;
- Provide for public participation in program development; and
- Create jobs, reduce blight through economic revitalization in local communities, and increase capital investment and the local tax base.

According to Office of Program Policy Analysis and Government Accountability (OPPAGA), the program is a voluntary cleanup program in that cleanup actions are initiated by landowners and developers rather than by government regulatory actions. While the program provides various financial and regulatory incentives and assistance, landowners and developers are responsible for ensuring that the contamination at the site has been properly remediated. Under the program, local governments designate parcels to be included in a brownfield area. Local governments must also form advisory committees as a means to obtain public participation in designating brownfield areas. Currently, local governments have designated 45 brownfield areas in Florida encompassing 66,959 acres.

At the state level, three entities are involved in carrying out activities related to redeveloping brownfields: the Department of Environmental Protection, the Governor's Office of Tourism, Trade, and Economic Development (OTTED), and Enterprise Florida, Inc. (EFI). OTTED is responsible for administering many of the brownfield incentives. One of these incentives is Brownfield Redevelopment Bonus Refunds.

Brownfield Redevelopment Bonus Refunds

An eligible business redeveloping a site in a brownfield area may receive refunds of $2,500 per job created at the designated site on various state and local taxes. No more than 25% of the total refund approved may be taken in any single fiscal year. In order to be eligible for this refund, a business must be a firm that has already been approved by OTTED to be eligible to receive tax refunds under s. 288.106, F.S., or meet other criteria, such as demonstrating a fixed capital

investment of at least $2 million in mixed-use business activities, and which pays wages that are at least 80% of the average of private sector wages in the county in which the business is located; and creates at least 10 new Florida full-time jobs, excluding construction and site remediation jobs. In order to receive the bonus incentive, a company must first apply to EFI. EFI staff assists companies in completing the applications and reports their recommendations regarding the application to OTTED. OTTED then makes the final decision on awarding the incentive. Local participation from counties, cities, and other private sector sources are required to provide 20% of the approved bonus refunds for qualified businesses. As of November 2001, brownfields redevelopment bonus refunds have been distributed to four firms that reported creating a total of 1,298 jobs. As of November 2001, OTTED had approved bonus refunds totaling $2,588,750 of which $60,942 had been paid to the brownfield redevelopers. According to OTTED staff, the bonus refund is usually paid to a business over a five to six-year period. However, a business does not receive the bonus refund in a given year if its wages or number of jobs fall below the 80% and 10 thresholds.

C. EFFECT OF PROPOSED CHANGES:

Community Redevelopment Agencies

CS/HB 1341, 2nd ENG., amends the Community Redevelopment Act of 1969 to revise the definitions of slum and blight and to revise statutory provisions governing a finding of necessity so as to require a local government to adopt a resolution, supported by data and analysis, that makes a legislative finding that the conditions in the area meet the revised definition of a "slum area" or of a "blighted area" prior to establishing a community redevelopment agency (CRA.). This change deletes lack of affordable housing as an independent condition for which CRAs may be created. The bill establishes a notification process for each taxing authority for the creation or modification of a CRA, and expands the maximum number of commissioners serving on a CRA board from seven to nine. The bill establishes a 40 year time limit for new CRAs, limits the time frame for indebtedness for new CRAs to 40 years, revises statutory provisions governing the exemption of special districts from the requirement to appropriate incremental tax revenues to a CRA, and requires charter counties to act on a municipality's request relating to the delegation of CRA powers within 120 days.

The bill grandfathers existing CRAs, except if they expand their boundaries, in which case the expanded area must meet the new definitions, and provides that the bill does not apply to any ordinance, resolution, interlocal agreement, or written agreement effective before July 1, 2002, that provides for the delegation of community redevelopment powers. The bill also exempts: any municipality that has authorized a finding of necessity study by May 1, 2002, or has adopted its finding of necessity on or before August 1, 2002, and has adopted its CRA plan on or before December 31, 2002; any municipality that has submitted before August 1, 2002, its finding of necessity, application for approval of a CRA plan, or application to amend an existing CRA plan to a county that has adopted a home rule charter; and Miami-Dade County and its cities from revisions to statutory provisions relating to a finding of necessity, contents of a CRA plan, the issuance of revenue bonds, and redevelopment trust funds. The bill includes provisions protecting all existing outstanding debt.

Coastal Resort Area Redevelopment Pilot Project

The bill extends the Coastal Resort Area Redevelopment Pilot Project until December 2006.

Brownfield Redevelopment

The bill makes the following changes to the Brownfield Redevelopment Program:

- Eliminates a local participation requirement for qualified targeted business participation in brownfields redevelopment bonus refunds;

- Eliminates the 80 percent average annual pay requirement for participation in brownfields redevelopment bonus refunds and replaces it with a benefits requirement; and

- Provides clarifying language on the limits for bonus refunds.

This bill is expected to encourage small businesses and developers to participate in redevelopment activities on designated brownfield sites.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Subsection (3) of s. 163.336, F.S., is amended to extend the life of the coastal resort area redevelopment pilot project until December 31, 2006.

Section 2. Subsections (3), (7), and (8) of s. 163.340, F.S., are amended. Subsection (3), which defines “governing body,” is amended to insert “commission.”

Subsection (7), which defines "slum area" is substantially amended. Under the current definition, the area must have a predominance of buildings or improvements, whether residential or nonresidential, which, by reason of at least one several conditions, is conductive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime and are detrimental to the public health, safety, morals, or welfare.

The subsection is amended to restrict the definition to those areas with physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and which area exhibits one or more of the following factors:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;

- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or

- The existence of conditions that endanger life or property by fire or other causes.

Subsection (8), which defines "blighted area," also is substantially. Under current law, “blighted area,” means either:

(a) An area in which there are a substantial number of slum, deteriorated, or deteriorating structures and conditions that lead to economic distress or endanger life or property by fire or other causes or one or more of the following factors that substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use:

1. Predominance of defective or inadequate street layout;
2. Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
3. Unsanitary or unsafe conditions;

4. Deterioration of site or other improvements;
5. Inadequate and outdated building density patterns;
6. Tax or special assessment delinquency exceeding the fair value of the land;
7. Inadequate transportation and parking facilities; and
8. Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

(b) An area in which there exists faulty or inadequate street layout; inadequate parking facilities; or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic flow into or through the area, either at present or following proposed construction.

However, for purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area described in paragraph (a).

As amended, the definition is an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such condition;
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- Unsanitary or unsafe conditions;
- Deterioration of site or other improvements;
- Inadequate and outdated building density patterns;
- Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Residential and commercial vacancy rates higher in the area than the remainder of the county or municipality;
- Incidence of crime in the area higher that the remainder of the county or municipality;
- Fire and emergency medical service calls to the area higher on a proportional basis than the remainder of the county or municipality;
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in remainder of the county or municipality;
- Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or

- Governmentally owned property with adverse environmental conditions caused by a public or private entity.

The definition is further amended to provide that the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. In addition, the subsection is amended to provide that for purposes of qualifying for the tax credits authorized in chapter 220, F.S., "blighted area" means an area as defined in this subsection.

Section 3. Section 163.355, F.S., is amended to revise provisions governing the finding of necessity by a county or municipality required prior to exercising the powers granted under the community redevelopment act. The section is amended to clarify that no county or municipality may exercise the “community redevelopment” authority conferred by part III of ch. 163, F.S., until the appropriate governing body has first adopted a resolution finding specified facts. The section is amended to require the resolution, supported by data and analysis, to make a legislative finding that the conditions in the area meet the criteria described in s. 163.340(7) or (8), F.S. Existing language currently governing the actual finding the local government must make is retained to govern the content of the local government’s resolution.

The amendment to the section has the effect of requiring a local government to adopt an ordinance, supported by data and analysis, that makes a legislative finding that an area meets either the revised definition of a “slum area” or of a “blighted area” prior to establishing a community redevelopment area. Under current law, the local government must find that one or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exists in the county or municipality, and the rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

Section 4. Subsections (1) and (2) of s. 163.356, F.S., are amended. Subsection (1) is amended to provide that a charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one CRA.

Subsection (2) is amended to increase from seven to nine the maximum number of commissioners a CRA board of commissioners may have.

Section 5. Section 163.361(2), F.S., is amended to require the governing body to hold a public hearing on “any” rather than “a” proposed modification to a community redevelopment plan.

In addition, a new subsection (3) is added to provide that in addition to the requirements of s. 163.346, F.S., and prior to the adoption of any modification to a community redevelopment plan that expands the boundaries of the community redevelopment area or extends the time certain set forth in the redevelopment plan as required by s. 163.362(10), F.S., the agency shall report such proposed modification to each taxing authority in writing or by an oral presentation, or both, regarding such proposed modification.

A new subsection (4) is added to provide that a modification to a community redevelopment plan that includes a change in the boundaries of the redevelopment area to add land must be supported by a resolution as provided s. 163.355, F.S. Current subsection (3) is renumbered subsection (5).

Section 6. Subsection (10) of s. 163.362, F.S., relating to the required contents of community redevelopment plans, is amended. The subsection currently requires that such plans include a time certain for completing all redevelopment financed by increment revenues, which time certain must occur no later than 30 years after the fiscal year in which the plan is approved, adopted, or amended. The subsection is amended to require that for any CRA created after July 1, 2002, the time certain for completing all redevelopment financed by tax increment revenues must occur no later than 40 years after the fiscal year in which the plan is initially approved or adopted.

Section 7. Paragraph (a) of subsection (1) of s. 163.385, F.S., is amended to provide that for any CRA created after July 1, 2002, any redevelopment revenue bond or other obligations issued to finance the undertaking of any community redevelopment under this part shall mature within 40 years after the end of the fiscal year in which the initial community redevelopment plan was approved or adopted. The paragraph is further amended to provide that for any CRA created after July 1, 2002, any form of indebtedness pledging increment revenues to the repayment thereof shall mature no later than the 40th year after the fiscal year in which the initial community redevelopment plan was approved or adopted.

Section 8. Subsections (1), (2), and (6) of s. 163.387, F.S., relating to redevelopment trust funds, are amended. Subsection (1) is amended to provide that a community redevelopment trust shall be established only after approval of a community redevelopment plan.

Subsection (2)(a) is amended to provide that for any CRA created after July 1, 2002, each taxing authority shall make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the initial community redevelopment plan was approved or adopted.

Subsection (2)(c) is amended to revise an exemption for special districts and to delete language limiting the exemption to those special districts created prior to July 1, 1993.

Subsection (2)(d) is amended to delete the required date by which a local government must establish procedures by which a special district may submit a written request to be exempted from contributing tax increment revenues.

Subsection (6) is amended to qualify that moneys in the redevelopment trust fund may be expended for a list of undertakings of a community redevelopment agency "including, but not limited to..". These purposes include, for example: administrative and overhead expenses; planning costs; acquisition of real property in the redevelopment area; repayment of principal and interest for loans and bonds; and the development of affordable housing.

Section 9. Section 163.410, F.S., is amended to require that the governing body of a charter county must act on the request of a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days of receipt of all required documentation of the request, unless otherwise provided by ordinance, resolution, or interlocal agreement between the charter county and a municipality.

Section 10. Subsection (1) of this section declares that amendments to part III of chapter 163, F.S., as provided by this act, do not apply to any ordinance or resolution authorizing the issuance of any bond, note, or other form of indebtedness to which are pledged increment revenues pursuant to

a community redevelopment plan, or amendment or modification thereto, as approved or adopted before July 1, 2002.

Subsection (2) provides that amendments to part III of chapter 163, F.S., as provided by this act, shall not apply to any ordinance, resolution, interlocal agreement, or written agreement effective before July 1, 2002, that provides for the delegation of community redevelopment powers.

Subsection (3) provides that amendments to ss. 163.340, 163.355, 163.361, and 163.362, F.S., by this act do not apply to or affect, directly or indirectly, any CRA created before July 1, 2002, unless the community redevelopment area is expanded on or after July 1, 2002, in which case only the amendments to ss. 163.340 and 163.355, F.S., by this act shall apply only to such expanded area.

Subsection (4) provides that amendments to ss. 163.340, 163.355, 163.361, and 163.362, F.S., by this act do not apply to or affect, directly or indirectly, any municipality that has authorized a finding of necessity study by May 1, 2002, or has adopted its finding of necessity on or before August 1, 2002, and has adopted its community redevelopment plan on or before December 31, 2002.

Subsection (5) provides that amendments to ss. 163.340, 163.355, 163.361, and 163.362, F.S., by this act do not apply to or affect, directly or indirectly, any municipality that has submitted before August 1, 2002, its finding of necessity, or application for approval of a community redevelopment plan, or an application to amend an existing community redevelopment plan to a county that has adopted a home rule charter.

Subsection (6) provides that amendments to ss. 163.355, 163.362, 163.385, and 163.387, F.S., by this act do not apply to or affect, directly or indirectly, any county as defined in s. 125.011(1), F.S., or any municipality located therein.

Section 11. Paragraph (k) of subsection (1) of s. 288.106, F.S., is amended to eliminate a local participation requirement for qualified targeted business participation in brownfields redevelopment bonus refunds.

Section 12. Paragraph (e) of subsection (1), subsection (2), and paragraph (b) of subsection (3) of s. 288.107, F.S., are amended to eliminate the 80 percent average annual pay requirement for participation in brownfields redevelopment bonus refunds and replaces it with a benefits requirement. The section also provides clarifying language on the limits for bonus refunds.

Section 13. An effective date of July 1, 2002, is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The impact of the revisions to the Brownfield Redevelopment Program on appropriations is indeterminate. The bill as passed relaxes the requirements needed by developers to receive the approved refunds. As is noted in the "Present Situation, currently there are $2.6 million of approved refunds for all current and future years; however, only $60,942 has been disbursed. Projected annual appropriations for the approved refunds would be approximately $500,000

per year for future fiscal years. This bill would increase the number of projects eligible for refunds. An estimate provided by OTTED suggested that annual appropriations would need to increase by at least $100,000, but could increase by as much as $500,000 in future fiscal years.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

There is an indeterminate savings to local governments by eliminating the Brownfield Redevelopment Program's local government participation requirement, which is 20% of the bonus refunds.

See "Fiscal Comments" section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may provide greater economic incentive for the private sector to redevelop brownfield contamination sites.

D. FISCAL COMMENTS:

The fiscal impact of revisions to the Community Redevelopment Act of 1969 will have on local governments is unclear. If the bill has the overall effect of limiting the areas local governments are authorized to use tax incrementing financing to fund redevelopment, this change may result in less use of tax increment financing to fund community redevelopment, and/or it may redirect such efforts to different, more distressed areas. If the later outcome occurs, total tax increment revenues paid and collected by local governments may decrease due to slower growth rates in ad valorem tax assessments associated with more distressed areas.

The bill limits the time period each taxing authority is required to appropriate incremental ad valorem tax revenues to a CRA created after July 1, 2002, to no more than 40 years. This change will result in an unknown reduction in total tax increment revenues paid and collected by local governments.

The bill also exempts additional special districts from the requirement to appropriate incremental revenues. This change will decrease tax increment revenues paid by special districts.

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 expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

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

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

The bill does not reduce the percentage of a state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Technical Concerns

As discussed in the "Section-by-Section Analysis," section 3 of this bill amends s. 163.355, F.S., to require a local government to adopt a resolution, supported by data and analysis, which makes a legislative finding that conditions in the area meet the criteria in the revised definitions of a "slum area" or of a "blighted area" prior to exercising the community redevelopment powers granted by part III of ch. 163, F.S. Although the bill retains current language addressing lack of affordable housing, which currently governs the nature of the actual finding, in the requirements for the content of the resolution, the effect of the amendment appears to be to delete the lack of affordable housing as an independent condition for which CRAs may be created to address. As discussed in the "Present Situation" section, s 163.360, F.S., relating to community redevelopment plans, and s. 160.340(10), F.S., which defines "community redevelopment area", both include the lack of affordable housing as an independent condition for which community redevelopment agencies may be created to address.

In two instances in the bill, reference is made to the Florida Building Code. In section 1 of the bill, s. 163.340(7)(b), F.S., relating to the definition of "slum area," is amended to refer to "overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code." Also in section 1 of the bill, s. 163.340(8)(1), F.S., relating to the definition of "blighted area," is amended to add new language referencing "violations of the Florida Building Code". Regarding the first reference, the Florida Building Code does not address maximum numbers of inhabitants. Regarding the second reference, the Florida Building Code applies to new construction or substantial renovations to existing structures. Perhaps a more appropriate reference would be to requirements in and violations of the local government's codes governing such matters.

Brownfield Redevelopment Program

According to OPPAGA, OTTED staff and developers believe the program's incentives are insufficient to encourage developers to clean up and redevelop brownfield sites. They noted that in order to qualify for the bonus refund, a business must create at least 10 full-time, permanent jobs that pay at least 80% of the average wage in the county where the business is located. This requirement precludes the bonus refunds' use by smaller businesses that create many jobs in distressed areas. Changing this requirement to allow firms that employ fewer than 10 persons to receive incentives, as this bill does, could make the program attractive to more developers.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

House Floor Amendment to CS 1341, 1st ENG.

On March 20, CS/HB 1341, 1st ENG., was read a third time, amendments were adopted, and the bill was passed.

Amendment #695555, by Representative Allen, inserted the substance of CS/HB 1281, relating to the Brownfield Redevelopment Program, into the bill.

Amendment #361159, by Representative Dockery, replaced grandfathering language that referred to particular sections of the bill with new language referencing the sections of statutes amended in the bill.

House Floor Amendments to CS/HB 1341

On March 14, 2002, CS/HB 1341 was read a second time and amendments were adopted. Amendment #871681, by Representative Dockery, was a strike-everything amendment, which was considered by the House, amended, and adopted. The strike-everything amendment, as amended, made the following changes to CS/HB 1341:

- Added language amending s. 163.336, F.S., to extend the life of the coastal resort area redevelopment pilot project until December 31, 2006.

- Made stylistic changes to the definitions of “slum area” and “blighted area,” as well as adding “governmentally owned property with adverse environmental conditions caused by a public or private entity” to the list of factors of which two must be present for an area to qualify as a “blighted area.”

- Added language providing that the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted.

- Amended s. 163.356, F.S., to provide that a charter county having a population less than or equal to 1.6 million may create, by a vote of at least a majority plus one of the entire governing body of the charter county, more than one CRA.. The amendment also increased from seven to nine the maximum number of commissioners a CRA board of commissioners may have.

- Deleted language included in CS/HB 1341 exempting independent fire control districts, mosquito control districts, and hospital districts from the requirement to contribute tax increment revenue to CRAs created after July 1, 2002.

- Added language to revise an exemption for special districts and to delete language limiting the exemption to those special districts created prior to July 1, 1993.

- Added language amending subsection (6) of s. 163.387, F.S., to qualify that moneys in the redevelopment trust fund may be expended for a list of undertakings of a community redevelopment agency “including, but not limited to..”

- Added language amending s. 163.410, F.S., to require that the governing body of a charter county must act on the request of a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days of receipt of all required documentation of the

request, unless otherwise provided by ordinance, resolution, or interlocal agreement between the charter county and a municipality.

- Provided new grandfathering language similar to that included in CS/HB 1341, 2nd ENG.

Differences Between CS/HB 1341 and HB 1341

On February 26, 2002, the Council for Smarter Government considered and passed HB 1341 as a council substitute, which incorporated the substance of the strike-everything amendment adopted by the Committee on Fiscal Policy and Resources at its February 19, 2002, meeting. This amendment, in turn, incorporated the substance of amendments 3-8 adopted by the Committee on Local Government & Veterans Affairs at its February 12, 2002, meeting. CS/HB 1341 differs from the original filed bill in the following ways:

Section 1: Modifies the definition of "blighted area" and removes provisions specifying that the amended definitions of "slum" and "blighted area" do not apply to CRAs created prior to October 1, 2002.

Section 2: The section is reworded and provisions specifying that the changes do not apply to CRAs created prior to October 1, 2002 are removed.

Section 3: Adds new subsections (3) and (4) to section 163.361, F.S. Subsection (3) requires that prior to any expansion of boundaries or extension of time for a CRA, each taxing authority will receive notification of the proposed modification. Subsection (4) requires that boundary expansions be supported by a resolution "as provided in s. 163.355", F.S.
Section 4: Specifies that CRAs created after July 1, 2002, shall be financed by tax increment revenues for no more than 40 years.

Section 5: Conforms bonding provisions to the 40 year limit established in Section 4.

Section 6: Conforms language to the 40 year limit established in Section 4. Also, this section exempts from certain trust fund provisions independent fire control districts, mosquito control districts, and hospital districts created after July 1, 2002.

Section 7: This section declares that amendments to part III of chapter 163, F.S., as provided by this act, do not apply to any ordinance or resolution authorizing the issuance of any bond, note, or other form of indebtedness to which are pledged increment revenues pursuant to a community redevelopment plan, or amendment or modification thereto, as approved or adopted before January 1, 2003, rather than October 1, 2002 as in HB 1341.

Section 8: This is a new section which states that the amendments in this act "are not intended to impair any ordinance, resolution, interlocal or written agreement effective prior to July 1, 2002, that provides for the delegation of community redevelopment powers."

Section 9: Changes effective date to July 1, 2002.

VII. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:	Staff Director:
Thomas L. Hamby, Jr.	Joan Highsmith-Smith

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:	Staff Director:
Kama Monroe	Lynne Overton

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:	Council Director:
Thomas L. Hamby, Jr.	Don Rubottom

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:	Staff Director:
Thomas L. Hamby, Jr.	Joan Highsmith-Smith