

By the Committee on Comprehensive Planning; and Senator
Bennett

316-2377-04

1 A bill to be entitled
2 An act relating to comprehensive planning by
3 municipalities in highly populated urban
4 counties; amending s. 163.3174, F.S.;
5 conforming a cross-reference; amending s.
6 163.3171, F.S.; providing certain exceptions to
7 limitations on a charter county's land use
8 planning authority; granting exclusive planning
9 authority to municipalities located in charter
10 counties with a population of greater than 1.5
11 million and having less than 10 percent of the
12 countywide population within the unincorporated
13 area; authorizing the delegation of planning
14 authority; authorizing a charter county under
15 certain circumstances to comment on proposed
16 land use within the municipality or provide
17 planning assistance; exempting certain
18 comprehensive plan amendments from the
19 limitation on the frequency of plan amendments;
20 clarifying the effect of the act on certain
21 development orders; clarifying the act does not
22 affect the ability of a charter county to levy
23 and enforce impact fees; prescribing
24 level-of-service requirements for county
25 facilities; providing exceptions; providing an
26 effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Paragraph (b) of subsection (1) of section
31 163.3174, Florida Statutes, is amended to read:

1 163.3174 Local planning agency.--
2 (1) The governing body of each local government,
3 individually or in combination as provided in s. 163.3171,
4 shall designate and by ordinance establish a "local planning
5 agency," unless the agency is otherwise established by law.
6 Notwithstanding any special act to the contrary, all local
7 planning agencies or equivalent agencies that first review
8 rezoning and comprehensive plan amendments in each
9 municipality and county shall include a representative of the
10 school district appointed by the school board as a nonvoting
11 member of the local planning agency or equivalent agency to
12 attend those meetings at which the agency considers
13 comprehensive plan amendments and rezonings that would, if
14 approved, increase residential density on the property that is
15 the subject of the application. However, this subsection does
16 not prevent the governing body of the local government from
17 granting voting status to the school board member. The
18 governing body may designate itself as the local planning
19 agency pursuant to this subsection with the addition of a
20 nonvoting school board representative. The governing body
21 shall notify the state land planning agency of the
22 establishment of its local planning agency. All local planning
23 agencies shall provide opportunities for involvement by
24 applicable community college boards, which may be accomplished
25 by formal representation, membership on technical advisory
26 committees, or other appropriate means. The local planning
27 agency shall prepare the comprehensive plan or plan amendment
28 after hearings to be held after public notice and shall make
29 recommendations to the governing body regarding the adoption
30 or amendment of the plan. The agency may be a local planning
31 commission, the planning department of the local government,

1 or other instrumentality, including a countywide planning
2 entity established by special act or a council of local
3 government officials created pursuant to s. 163.02, provided
4 the composition of the council is fairly representative of all
5 the governing bodies in the county or planning area; however:

6 (b) In the case of chartered counties, the planning
7 responsibility between the county and the several
8 municipalities therein shall be as provided for in s. 163.3171
9 ~~stipulated in the charter.~~

10 Section 2. Subsection (2) of section 163.3171, Florida
11 Statutes, is amended to read:

12 163.3171 Areas of authority under this act.--

13 (2) Counties shall exercise authority under this act
14 as follows:

15 (a) A noncharter county shall exercise authority under
16 this act for the total unincorporated area under its
17 jurisdiction or in such unincorporated areas as are not
18 included in any joint agreement with municipalities
19 established under the provisions of subsection (1).

20 (b) Charter counties that operate under a home rule
21 charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of
22 the Constitution of 1885, as preserved by s. 6(e), Art. VIII
23 of the Constitution of 1968, may exercise such authority over
24 municipalities and districts within their boundaries as is
25 provided for in their charter.

26 (c) In recognition of the need to allow municipalities
27 in highly populated urban counties in which most of the
28 population of the county is located within municipalities to
29 address land use planning issues on a municipal basis, in
30 charter counties that have populations greater than 1.5
31 million people and have less than 10 percent of the countywide

1 population within the unincorporated area of the county, the
2 municipalities within such counties shall, except as otherwise
3 expressly provided in this paragraph, exercise exclusive land
4 use planning authority. This exclusive land use planning
5 authority includes, but is not limited to, platting, zoning,
6 comprehensive planning, and the issuance of development orders
7 for the area under municipal jurisdiction. A municipality that
8 has exclusive planning authority pursuant to this paragraph
9 may, by resolution of its governing body, delegate all or a
10 part of its planning authority for the area under its
11 municipal jurisdiction to the county in which it is located. A
12 charter county that does not exercise planning authority
13 within a municipality pursuant to this paragraph may, upon the
14 request of the municipality, provide written comments
15 concerning a proposed land use within the jurisdiction of that
16 municipality or provide planning assistance to that
17 municipality. Municipalities whose land use planning authority
18 becomes exclusive pursuant to this paragraph may amend their
19 comprehensive plans one additional time in 2004 or in 2005,
20 without regard to the twice-a-year restriction in s.
21 163.3187(1), to provide for amendments the municipality
22 determines to be necessary or appropriate for the transition.
23 Development orders issued prior to July 1, 2004, by a charter
24 county subject to this paragraph for property within a
25 municipality shall remain valid for the effective period of
26 the development order unless an application for an amendment
27 to the development order is approved by the municipality in
28 accordance with the procedures of the municipality for
29 amending development orders. This paragraph does not affect
30 the authority of a charter county subject to this paragraph to
31 adopt and enforce countywide impact fees. Effective July 1,

1 2004, the level of service for county facilities in counties
2 subject to this paragraph shall be the level of service that
3 was applied by the county on April 1, 2004. In order for any
4 future change in level of service for county facilities of a
5 county subject to this paragraph to become effective within a
6 municipality, the change in the level of service shall require
7 the approval of both the affected municipality and the county,
8 as evidenced by both the municipality and county adopting the
9 amended level of service for the county facilities into their
10 respective comprehensive plans. In counties subject to this
11 paragraph which have adopted a level of service for county
12 roadways, the county shall, upon written application and the
13 payment of a reasonable fee, review and advise the
14 municipalities as to whether proposed mitigation of traffic
15 impacts that are to be provided by improvements to county
16 roadways meet the county's permit criteria for improvements to
17 county roadways. Nothing in this paragraph shall be
18 interpreted to affect a county's permit authority with respect
19 to county roadways. This paragraph applies notwithstanding any
20 other law.~~In the case of chartered counties, the~~
21 (d) A charter county that is not subject to paragraph
22 (c) may exercise such authority over municipalities and or
23 districts within its boundaries as is provided for in its
24 charter.

25 Section 3. This act shall take effect July 1, 2004.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2956

The committee substitute (CS) adds the requirement that a municipality be located within a charter county that has less than 10 percent of the countywide population within the unincorporated area to exercise exclusive planning authority within its jurisdiction. In addition, it allows municipalities whose land use planning authority that becomes exclusive under the provisions of the CS to amend their comprehensive plans one additional time in 2004 or 2005 without regard to the limitation on the frequency of plan amendments. It clarifies the effect of the CS on certain development orders. It specifies that its provisions do not affect a charter county's authority to adopt and enforce a countywide impact fee or the county's permit authority with respect to county roadways. Finally, it provides that certain levels of service remain in effect until both the municipality that is exercising exclusive planning authority and the affected charter county adopt the amended level of service into their respective comprehensive plans.