

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1865 CS PCB GM 05-01 Growth Management Incentive Act of 2005

SPONSOR(S): Growth Management Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	9 Y, 0 N	Grayson	Grayson
1) Local Government Council	8 Y, 0 N, w/CS	Camechis	Hamby
2) Transportation & Economic Development Appropriations Committee	12 Y, 7 N, w/CS	McAuliffe	Gordon
3) State Infrastructure Council	10 Y, 0 N, w/CS	Grayson	Havlicak
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill creates the "Sustainable Florida Act of 2005" and provides legislative intent. The bill declares urban infill and redevelopment as a high state priority and promotes such development through relaxed procedures and state funding incentives.

The bill strengthens concurrency requirements, creates certain financial feasibility requirements, and strengthens intergovernmental coordination requirements, for schools, roads and water to mitigate issues resulting from continued growth in the state's population. To ensure that these strengthened concurrency requirements do not result in forcing development out of urbanized areas and into undeveloped rural or agricultural areas, the act creates incentives to encourage urban infill and redevelopment.

The bill provides for proportionate-share mitigation (or pay-as-you-go) to make sure that current development is not constrained by, or assessed for, impacts related to system backlogs and facilities deficits.

In addition to strengthening certain concurrency provisions, the bill makes corresponding changes to several elements of the local comprehensive plan including: the capital improvement element, the future land use element, the traffic circulation element, the water related element, the intergovernmental coordination element, and the public educational facilities element. Further, the act requires certain assessments and evaluations in conjunction with the evaluation and appraisal report.

The bill also creates the "Century Commission Act for a Sustainable Florida," creating a standing body to help Floridians to envision and plan for Florida's growth 25 to 50 years into the future.

The bill provides \$500 million from the General Revenue Fund to fund two transportation programs: \$450 million for the Local Government Concurrency Grant Program for Sustainable Transportation, and \$50 million for the Off-System Bridge Grant Program for Sustainable Transportation.

The bill provides \$100 million from the General Revenue Fund to the Department of Environmental Protection to fund the development of alternative water supplies.

The bill provides \$35 million to address school capacity issues or to address growth demands within a county; and \$15 million to incentivize the creation of Educational Facilities Benefit Districts, from the General Revenue Fund to the Department of Education.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/22/2005

The bill provides \$500,000 from the General Revenue Fund to the Department of Community Assistance to promote good growth practices within rural counties with populations of less than 50,000 individuals.

The bill provides \$250,000 from the General Revenue Fund to the Department of Community Assistance for staffing and other assistance in support of the Century Commission for a Sustainable Florida.

The bill directs the Office of Program Policy Analysis and Government Accountability to conduct a study on the better alignment of several entities to create a more unified system of regional boundaries.

The bill repeals s. 163.31776, F.S.

The bill provides an effective date of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government. The bill includes some reduction in the processes regarding the amendment of local comprehensive plans. The bill also creates the Century Commission for a Sustainable Florida.

Ensure lower taxes. The bill strengthens public facility concurrency requirements and requires certain financial feasibility in the planning to meet the capacity demands for those facilities.

Safeguard Individual Liberty. The bill provides incentives to private organizations to participate and organize local and regional efforts to address or resolve statewide and regional growth management issues.

B. EFFECT OF PROPOSED CHANGES:

Background

School Concurrency

School concurrency is currently imposed by local option under existing law.¹ The law provides school concurrency may imposed on a districtwide basis to include all public schools located within the district (county). The minimum requirements for school concurrency include:

- Adoption of a public school facilities element which must be consistent will all other public school facilities elements within the same county.
- Adequate level of service (LOS) standards established jointly between the school board and local governments.
- Delineation of service areas within which the LOS will be measured.
- A financially feasible public school capital facilities element.
- An availability standard to avoid denial of a development permits authorizing residential development for failure to meet LOS standards.
- Satisfaction of intergovernmental coordination requirements.
- An intergovernmental agreement for school concurrency.

Additionally, existing law requires an interlocal agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure, collocation and joint use of civic and school facilities, sharing of development and school construction information. These interlocal agreements are reviewed and approved by DCA with the assistance of the Department of Education. There are exemptions from the statutory requirements for those local governments that are not experiencing growth in school age populations which would require increased capacity. Those exemptions are available if certain conditions are met, such as where no schools are found within the jurisdiction's boundaries and where the school board verifies in writing that no schools are needed in the five and 10-year planning period.

In November 2002 the voters of Florida approved an amendment to s. 1, Art. IX of the State Constitution, to provide that by the beginning of the 2010-2011 school year the maximum number of students assigned to a teacher teaching in public school classrooms shall be as follows: for students in pre-kindergarten through grade 3 no more than 18; for students in grades 4-8 no more than 22; and for students in grades 9-12 no more than 25. Indications are the current number of teachers available is insufficient to both meet the amendment's requirements and to replace currently employed teachers

¹ s. 163.3180(13), F.S.

who will be retiring or leaving the teaching profession for other reasons. The need for classroom facilities depends on how districts choose to utilize existing facilities to meet the teacher/pupil ratios provided in the amendment.

Transportation Concurrency

The Growth Management Act of 1985 requires local governments to use a systematic process to ensure new development does not occur unless adequate infrastructure is in place to support the growth. The requirement for public facilities and infrastructure to be available concurrent with new development is known as concurrency. Transportation concurrency uses a graded scale of roadway level of service (LOS) standards assigned to all public roads.

Evaluation and Appraisal Report (EAR)-based Amendments

The DCA issued The Ear Process: Final Report of the DCA on December 23, 2004, in which it recommended amending the statutes to prohibit further plan amendments until the adoption of EAR based amendments has been completed by a local government. The data from DCA indicates that 55 percent of local governments do not submit their EAR-based amendments on time. Section 163.3191(11), F.S., provides for sanctions by the Administration Commission if these amendments are not adopted timely, but this enforcement action has not been used.

Study Commissions

Over the years, a number of 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.

The Florida Legislature has funded numerous growth management related studies over the years including those by the Environmental Land Management Study Committee and the Growth Management Study Commission (GMSC). The ELMS Committees issued three reports to the Governor and Legislature in December 1973, February 1984, and December 1992. The GMSC issued its report to the Governor in February 2001. These reports have been instrumental in educating the Legislature and the general public on growth management and conservation issues throughout the past thirty years.

Effects of Proposed Changes

Sustainable Florida Act of 2005

HB 1865 creates the "Sustainable Florida Act of 2005." The act recognizes the state's dramatic growth over the last thirty years. Resulting development patterns coupled with growth management policies have increasingly caused urban flight and sprawl. That development pattern has in turn caused capacity issues related to transportation facilities, public educational facilities, and water supply facilities.

In the act, the Legislature determines that it is in the best interest of the people of the state to undertake action to address these issues and to work towards a sustainable Florida. The act describes a sustainable Florida as one where "facilities are planned and available concurrent with existing and projected demands for those facilities while protecting the state's natural and environmental resources, rural and agricultural resources, and maintaining a viable and sustainable economy."

To that end, the act declares urban infill and redevelopment as a high state priority and promotes such development through relaxed procedures and state funding incentives.

The act strengthens concurrency requirements, creates certain financial feasibility requirements, and strengthens intergovernmental coordination requirements, for schools, roads and water to mitigate capacity and demand issues resulting from continued growth in the state's population. To ensure that these strengthened concurrency requirements do not result in forcing development out of urbanized areas and into undeveloped rural or agricultural areas, the act creates incentives to encourage urban infill and redevelopment.

The act provides for proportionate-share mitigation (or pay-as-you-go) to make sure that current development is not constrained by, or assessed for, impacts related to system backlogs and facilities deficits.

In addition to strengthening certain concurrency provisions, the act makes corresponding changes to several elements of the local comprehensive plan including: the capital improvement element, the future land use element, the traffic circulation element, the water related element, the intergovernmental coordination element, and the public educational facilities element. Further, the act requires certain assessments and evaluations in conjunction with the evaluation and appraisal report.

Century Commission for a Sustainable Florida

The bill also creates the "Century Commission for a Sustainable Florida to help Floridians to envision and plan for Florida's growth 25 to 50 years into the future.

The bill provides that the Century Commission will consist of nine members: three appointed by the Governor; three appointed by the President of the Senate; and three appointed by the Speaker of the House of Representatives. The Governor will designate the chair of the Commission. Each member will serve a four-year term, except initially, three of the members, one from each of the appointing authorities, will serve only two-year terms; three will serve four-year terms; and three will serve six-year terms to allow for staggered future terms. Appointments must be made by October 1, 2005. Members may serve a maximum of six years. A quorum consists of a majority of the voting members. Members each represent one vote; and the binding action of the commission is by a three-fifths vote of the members present.

The bill provides that the first meeting will be held no later than December 1, 2005, at least three times a year thereafter in different regions of the state to solicit public and other input on issues to be considered. The bill provides that members shall serve without compensation but are entitled to receive per diem and travel expenses in accordance with s. 212.061, F.S., while performing their duties.

The bill provides the Commission's power and duties are to:

- Conduct an annual process focused on envisioning the state's future; and developing and recommending policies, plans, action steps, or other strategies to assist in achieving the vision.
- Review and consider, continuously, statutory and regulatory provisions, governmental processes, and societal and economic trends, in relation to its inquiry into how the state, regional and local governments and entities, and citizens, can best accommodate increased populations while maintaining natural, historical, cultural and manmade life qualities that best represent Florida.
- Bring diversely representative people together to develop a shared image of the state and its developed and natural areas. This effort includes the matters addressed above and focuses on 20-year and 50-year horizons.
- Focus on essential state interests as defined in the act.
- Serve as an objective, non-partisan repository of exemplary community building ideas, and as a source to recommend strategies and practices for collaborative work on problem solving growth management issues.

The bill requires an annual written report be delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives, in addition to a verbal report to a Joint Session of the Legislature, beginning January 15, 2007. The Commission must address certain issues in its annual report, including recommendations regarding intergovernmental cooperation, dedicated sources of funding for infrastructure, and the need for balancing environmental protection with future growth.

The bill requires the President of the Senate, and the Speaker of the House of Representatives to create a joint select committee tasked with reviewing, for potential action, the annual findings and recommendations of the Commission.

The bill authorizes the Secretary of the Department of Community Affairs (DCA) to select an executive director for the Commission, who will serve at the pleasure of the Secretary and under the supervision and control of the Commission. Further, the bill provides that the DCA will provide necessary staff and other resources, upon recommendation of the Governor, to accomplish the Commission's five goals. Finally, the bill requires the Governor's agencies, and encourages other agencies, to render assistance and cooperate with the Commission.

District Boundary Study

The act directs the Office of Program Policy Analysis and Government Accountability to conduct a study on the better alignment of several entities to create a more unified system of regional boundaries. The entities included are: the regional planning councils, the water management districts, and the DOT districts.

Department Name Change

The act changes the name of the Department of Community Affairs to the Department of Community Assistance. Additionally, the act directs the Division of Statutory Revision of the Office of Legislative Services to prepare proposed legislation for introduction in the 2006 Regular Session to amend provisions of the statutes to conform to the department name change.

Fiscal Year 2005-2006 Funding Incentives

The act includes a number of funding incentives directed towards promoting urban infill and redevelopment and to begin to address certain facility backlog issues.

Local Government Concurrency Program for Sustainable Transportation: Creates a matching funds grant program within the Department of Transportation (DOT) to improve transportation facilities or systems which address identified concurrency management system backlog and relieves traffic

congestion in urban infill and redevelopment areas. This program is funded in the amount of \$450 million from the General Revenue Fund.

Off-System Bridge Program for Sustainable Transportation: Creates a matching funds grant program within DOT to improve the sufficiency rating of local bridges. This program is funded in the amount of \$50 million from the General Revenue Fund.

Charter School Incentive Program for Sustainable Schools: Creates a matching funds grant program with the Department of Education to address school capacity issues or to address growth demands within a county. This program is funded in the amount of \$35 million from the General Revenue Fund.

Educational Facilities Benefit Districts: Appropriates the amount of \$15 million from the General Revenue Fund to incentivize the creation of Educational Facilities Benefit Districts.

Funding for Sustainable Water: Appropriates the amount of \$100 million from the General Revenue Fund to the Department of Environmental Protection for the development of alternative water supplies.

Statewide Technical Assistance for a Sustainable Florida: Appropriates the amount of \$3 million from the General Revenue Fund to the Department of Community Assistance (DCA) to provide technical assistance to local governments and school boards in the implementation of this act.

Staffing for the Century Commission for a Sustainable Florida: Appropriates the amount of \$250,000 from the General Revenue Fund to DCA for staffing and other assistance to the Commission.

C. SECTION DIRECTORY:

Section 1. Creates the Sustainable Florida Act of 2005.

Section 2. Amends s. 20.18(1), (2), (3), (5), and (6), F.S., to change the name of the Department of Community Affairs to the Department of Community Assistance.

Section 3. Amends s. 163.3164(20), F.S., to reflect the department name change; and creates s. 163.3164(32), F.S., to define "financially feasible."

Section 4. Creates s. 163.3172, F.S., relating to urban infill and redevelopment.

Section 5. Amends ss. 163.3177(3); (6)(a), (b), (c), and (h), (11) and (12); and creates s. 163.3177(13), F.S., regarding the required and optional elements of comprehensive plans.

Section 163.3177(3)(a)5., F.S. is amended to require inclusion of: a schedule of capital improvements in the capital improvement element of the comprehensive plan; and, the extent improvements are relied upon to ensure concurrency and financial feasibility, the schedule of transportation improvements included in the metropolitan planning organization's transportation improvement program.

Section 163.3177(3)(b), F.S., is amended to require annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements; and to require a copy of the ordinance making corrections, updates, and modifications, to be transmitted to the department. The section provides a due date for amendments to implement this section and restrictions on subsequent amendments the future land use map; certain procedural requirements; and a limitation on challenges.

Section 163.3177(3)(c), F.S., is created to provide that when a local government adopts a long-term concurrency management system, it shall also adopt a corresponding long-term capital

improvements schedule which must be financially feasible for the 5-year schedule of capital improvements.

Section 163.3177(3)(d), F.S., is created to require a local government adopting a long-term concurrency management system to also adopt a long-term capital improvements schedule; and requires the first five years of the schedule to be financially feasible.

Section 163.3177(6)(a), F.S., is amended to add the availability of water supplies and public facilities to items required for inclusion in the future land use plan; and removes obsolete language regarding school siting.

Section 163.3177(6)(b), F.S., is amended to require each local government to adopt a transportation concurrency management system by December 1, 2006; to require the Department of Transportation (DOT) to develop a model transportation concurrency management ordinance by December 1, 2005; and allows transportation concurrency management system to assess concurrency impacts by districts or system-wide.

Section 163.3177(6)(c), F.S., is amended to require the water element to:

- Include applicable projects selected pursuant to 373.0361, F.S.
- Identify current supply sources, projects water use needs, irrigation and reclaimed water needs, and conservation and reuse strategies to reduce water supply demand.
- Include a work plan covering a 10-year period for building water supply facilities, including the development of alternative water supplies necessary to demands over the 10-year planning period.
- Describe how water supply needs will be met by other providers over the 10-year planning period.

Additionally, the section requires that the information provided to the water management district (WMD) for each project pursuant to s. 373.0361, F.S., to be incorporated into the work plan. The section requires a list of entities to plan cooperatively for the development of multijurisdictional water supply facilities, including the development of alternative water supply sources, sufficient to meet projected demands over the 10-year planning period.

Section 163.3177(6)(h)1., F.S., is amended to add regional water authorities to those entities addressed in the intergovernmental coordination element.

Section 163.3177(6)(h)4.a., F.S., is amended to require all local governments to enter into interlocal agreements regarding public educational facilities with the applicable district school board, county and municipalities.

Section 163.3177(11)(d)6., F.S., is amended to

- Require that the ordinance designating a rural land stewardship area will include a methodology for creating, conveying, and utilizing transferable rural land use credits.
- Require that the total number of transferable rural land use credits will enable the realization of the long-term vision and goals for projected population over a period of at least 25 years.

Section 163.3177(11)(d)6.j., F.S., allows different ratios to be assigned to transferable land use credits per acre to give priority to the retention of open space and agricultural land.

Section 163.3177(11)(d)9., F.S., exempts rural land stewardship areas from development of regional impact (DRI) review.

Section 163.3177(12)(a), F.S., is amended to incorporate provisions of s. 163.31776, F.S., which is repealed, to:

- Require all counties and municipalities to adopt a consistent public school facilities element; and to enter into an interlocal agreement.
- Provide for a waiver if utilization rates for all schools within the district are less than 100% and the projected 5-year capital outlay full-time equivalent student growth is less than 10%.
- Allow a waiver to a county or a municipality for a single school to exceed the 100% limit if the utilization rate for that school is not greater than 105% and there is no projected growth in the capital outlay full-time equivalent student population over the next 5 years.
- Provide a municipality in a nonexempt county may be exempt if it meets four specific criteria.

Section 163.3177(12)(b), F.S., is amended to add the interlocal agreement to the data and analysis supporting the public school facilities element.

Section 163.3177(12)(f), F.S., is amended to clarify school supporting infrastructure issues that must be addressed by goals, objectives and policies in the public educational facilities element.

Section 163.3177(12)(g), F.S., is amended to require the future condition maps to also include general location of improvements to existing schools or new schools anticipated over the 5 year or long-term planning period. The section provides that maps may not prescribe a land use on a particular parcel of land.

Section 163.3177(12)(h), F.S., is amended to require the department to establish phased schedules for adoption of the interlocal agreements and school element as follows:

- Updated interlocal agreements by December 1, 2006.
- Public School Facilities Elements by December 1, 2008, provided that DCA may grant a one-year extension for good and sufficient cause.

Additionally, the section provides that plan amendments to adopt this element are not limited to twice per year.

Section 163.3177(13), F.S., is created to encourage the development of community visions; require regional planning councils (RPCs) to assist upon request; and requires the vision to reflect the community's shared concept for growth and development, including visual representations depicting desired land use patterns and character over a 10-year period.

Section 6. Amends ss. 163.31777, F.S., regarding public schools interlocal agreements.

Sections 163.31777(1)(b) and (d), F.S., are deleted, and the remaining paragraphs are redesignated.

Section 163.31777(2), F.S., is amended detailing the matters to be addressed in the interlocal agreement.

Section 163.31777(3), is amended to provide that the update interlocal agreement and subsequent amendments must be submitted to DCA for consistency review within 30 days after execution.

Section 163.31777(5), F.S., is amended to provide a grandfathering of local governments that have transmitted an element to implement public school concurrency before July 1, 2005.

Section 163.31777(6), F.S., is amended to conform with the exemption provisions established in s. 163.3177(12)(a), F.S.

Section 163.31777(7), F.S., is amended to conform statutory citations.

Section 7. Amends ss. 163.3180(1)(a), (2)(a), (2)(c), (4)(c), (5), (6), (7), (9), (10), (13), and (15)(c); and creates ss. (16) and (17), F.S.

Section 163.3180(1)(a), F.S., is amended to add schools to those resources to which concurrency applies.

Section 163.3180(2)(a), F.S., is amended to require adequate water supplies to be available concurrent with new development.

Section 163.3180(2)(c), F.S., is amended to lessen the time period from 5 years to 3 years for concurrency from 5 years for Florida Intrastate Highway System (FIHS), and 3 years for other transportation facilities.

Section 163.3180(4)(c), F.S., is amended to require cooperative planning between local governments and DOT to maintain level of service (LOS) standards for the Strategic Intermodal System (SIS).

Section 163.3180(5)(a), F.S., is amended to remove a reference to the state comprehensive plan.

Section 163.3180(5)(d), F.S., is amended to require transportation concurrency exception guidelines to consider the SIS.

Section 163.3180(5)(e), F.S., is created to recognize urban infill and redevelopment as a high state priority, and to provide allowance for transportation concurrency waivers for certain development including: urban infill, urban redevelopment, downtown revitalization, urban infill and redevelopment under s. 163.2517, F.S., and built-out local governments.

Section 163.3180(6), F.S., is amended to require annual adjustment of local government concurrency management system calculations to reflect the impacts of de minimis projects.

Section 163.3180(7), F.S., is amended to require local governments and DOT to cooperatively plan for maintaining DOT LOS standards for SIS facilities within designated urban infill and redevelopment areas.

Section 163.3180(9)(a), F.S., is amended to add schools to the allowable concurrency management systems local governments may adopt.

Section 163.3180(9)(b), F.S., is amended to add schools to the facility backlogs that may be addressed over a longer planning period of up to 15 years.

Section 163.3180(9)(c), F.S., is created to add a long-term schedule of capital improvements to the plan which may allow for concurrency issues to be addressed over a longer period of up to 15 years.

Section 163.3180(9)(d), F.S., is created to require local governments to assess its progress towards improving LOS standards with the long-term concurrency management system.

Section 163.3180(10), F.S., is amended to allow local governments, with the concurrence of DOT, to establish LOS standards for certain general lanes in urbanized areas in relation to their effect on the SIS.

Section 163.3180(13), F.S., is amended to require the adoption of a public school facilities element prior to the effectiveness of school concurrency; and provides an exception for the Florida School for the Deaf and Blind.

Section 163.3180(13)(c)1., F.S., is amended to provide that school concurrency may initially be applied on a districtwide basis for 5 years, then be applied on a less than districtwide basis.

Section 163.3180(13)(c)2., F.S., is amended to conform with other provisions requiring the interlocal agreement to include supporting data and analysis for the element.

Section 163.3180(13)(c)3., F.S., is amended to provide that when a school concurrency is applied on a less than districtwide basis and cannot be met through mitigation, then development impacts must be shifted to a contiguous service area having capacity.

Section 163.3180(13)(e), F.S., is amended to allow development to proceed on a pay-as-you-go basis when school concurrency has not yet been met.

Section 163.3180(13)(e)1., F.S., is amended to outline appropriate mitigation options and requires a binding agreement between the applicant and the local government.

Section 163.3180(13)(e)2., F.S., is amended to allow a dollar-for-dollar fair market credit against other impact fees for pay-as-you-go proportionate-share mitigation.

Section 163.3180(13)(e)3., F.S., is amended to provide that proportionate-share mitigation will be directed toward a school capacity improvement identified in the financially feasible 5-year school district work plan.

Section 163.3180(13)(f), F.S., is amended to conform statutory citations.

Section 163.3180(15)(c), F.S., is amended to provide for cooperative planning between local governments and DOT in urban infill and redevelopment areas related to maintaining the adopted LOS for SIS.

Section (16)(a), F. S., is created to provide legislative intent to allow for a method to mitigate development impacts on transportation facilities.

Section 163.3180(16)(b), F.S., is created to allow for the creation of transportation mitigation banks.

Section 163.3180(16)(c), F.S., is created to provide; a credit against impact fees; to provided for DOT concurrence for mitigation against impacts to SIS; and to disallow DOT to charge a fee or require additional mitigation.

Section 163.3180(16)(d), F.S., is created to provide specifics for transportation impact mitigation.

Section 163.3180(17), F.S, is created to limit concurrency impact mitigation to the proportionate share contribution.

Section 8. Amends s. 163.3184(6)(a), F.S., relating to the process for adoption of comprehensive plan amendments to provide discretion to the department in the formal review of proposed comprehensive plan amendments.

Section 9. Amends s. 163.3187(1)(c), F.S., and creates s. 163.3187(1)(o), F.S., relating to the amendment of adopted comprehensive plans to provide an exemption from the twice per year limit on comprehensive plan amendments for certain activities relating to the construction of affordable housing and in local governments that are 90 percent "built-out."

Section 10. Amends ss. 163.3191(2)(k) and (l), and (10), F.S., relating to the evaluation and appraisal of comprehensive plans; and creates s. 163.3191(2)(o), F.S.

Section 163.3191(2)(k), F.S., is amended to require, at the time of the EAR, the evaluation of the exemption from entering a school interlocal agreement and from adoption of the public educational facilities element; and requires that if the exemption no longer applies, that the local government enter the required interlocal agreement and adopt the element.

Section 163.3191(2)(l), F.S., is amended to require the EAR to evaluate whether the local government has successfully identified water supply resources, including conservation and reuse, necessary to meet existing and projected water use demands for the comprehensive plan planning period.

Section 163.3191(2)(o), F.S., is created to require the EAR to evaluate the extent to which certain concurrency exception areas have achieved the purpose for which they were created.

Section 163.3191(10), F.S., is amended to add sanctions for the failure to timely adopt EAR based update amendments; and requires that a complete copy of the updated comprehensive plan be submitted to the department and other agencies as designated by rule.

Section 11. Creates ss. 163.3247(1), (2), (3), (4), and (5), F.S., relating to the creation of the Century Commission for a Sustainable Florida.

Section 163.3247(1), F.S., is created to create a popular name.

Section 163.3247(2), F.S., is created to provide findings and intent.

Section 163.3247(3), F.S., is created to create the Century Commission for a Sustainable Florida and to provide for its organization.

Section 163.3247(4), F.S., is created to provide for the powers and duties of the commission.

Section 163.3247(5), F.S., is created to provide for an executive director, staffing and other assistance.

Section 12. Amends s. 339.135(4)(b), F.S., to provide that the first 3-years of the DOT work program is the state's commitment to undertake the transportation projects contained therein and that local governments may rely upon those projects for concurrency purposes.

Section 13. Creates ss. 339.28171(1), (2), (3), (4), (5), and (6), F.S., relating to creation of the Local Government Concurrency Program for Sustainable Transportation.

Section 339.28171(1), F.S., is created to create a Local Government Concurrency Grant Program for Sustainable Transportation within the DOT to provide grants to local governments to improve a transportation facility or system which addresses identified concurrency management system backlog and relieves congestion in urban infill and redevelopment areas.

Section 339.28171(2), F.S., is created to provide eligibility criteria.

Section 339.28171(3), F.S., is created to direct the DOT to develop criteria, as detailed in the section, to assist local governments in addressing concurrency management system backlog.

Section 339.28171(4), F.S., is created to require a local government applicant to demonstrate a long-term concurrency management system to address existing capital improvement program backlog and how the project implements the program.

Section 339.28171(5), F.S., is created to authorize the DOT to adopt rules.

Section 339.28171(6), F.S., is created to provide authority to the DOT to adopt rules for the administration of this program.

Section 14. Creates ss. 339.2820, F.S., relating to the creation of the Off-System Bridge Program for Sustainable Transportation.

Section 339.2820(1), F.S., is created to create an Off-System Bridge Program for Sustainable Transportation within the DOT to provide funds to improve the sufficiency rating of local bridges.

Section 339.2820(2), F.S., is created to provide for a funds match of up to 50% from the DOT.

Section 339.2820(3), F.S., is created to direct the DOT to provide allocated funding for specific types of projects for highway bridges located on public roads, other than those on a federal-aid highway.

Section 339.2820(4), F.S., is created to provide minimum standards for projects to be funded under this program.

Section 15. Creates ss. 380.06(24)(l) and (m), F.S., relating to statutory exemptions from developments of regional impact review.

Section 380.06(24)(l), F.S., is created to provide a DRI exemption to any proposed development or redevelopment within an area designated for urban infill development, urban redevelopment, downtown revitalization, or urban infill and redevelopment under s. 163.2517, F.S.

Section 380.06(24)(m), F.S., is created to provide a DRI exemption to development within a rural land stewardship area created pursuant to s.163.3177(11)(d), F.S.

Section 16. Amends s. 380.115, F.S., relating to vested rights for developments of regional impact (DRI) and providing for previously issued DRIs in areas which are subsequently exempt from the DRI provisions.

Section 17. Directs the Office of Program Policy Analysis and Government Accountability to conduct a study on possible adjustments to the boundaries of the RPCs, the WMDs, and DOT districts, to create a more unified system of regional boundaries.

Section 18. Amends ss. 1013(2), (3), (6) and (12), F.S., relating to school board planning coordination with local governments.

Section 19. Creates s. 1013.352, F.S., relating to the creation of the Charter School Incentive Program for Sustainable Schools to provide match funding for the creation of charter schools to address school over capacity issues or to address growth demands within a county.

Section 20. Repeals s. 163.31776, F.S., relating to the public educational facilities element.

Section 21. Provides an appropriation of \$500 million from the General Fund to the DOT to fund: 1) the Local Government Concurrency Program for Sustainable Transportation in the amount of \$450 million; and 2) the Off-System Bridge Program for Sustainable Transportation in the amount of \$50 million.

Section 22. Provides for an appropriation of \$100 million for the General Revenue Fund to the Department of Environmental Protection to provide funding for the development of alternative water supplies; and provides criteria.

Section 23. Provides an appropriation of \$50 million from the General Revenue Fund to the Department of Education to promote innovative approaches to meet school capacity demands to fund: 1) the Charter School Incentive Program for Sustainable Schools, as created in s. 1013.352, F.S., in the amount of \$35 million; and 2) certain construction and capital costs related to the educational facility benefit districts as provided in 1013.356, F.S.

Section 24. Provides an appropriation from the General Revenue Fund to the Department of Community Assistance in the amount of \$3 million to provide statewide technical assistance to local governments and school boards to implement the provisions of this act.

Section 25. Provides for an appropriation of \$250,000 from the General Revenue Fund to the DCA to provide for staffing and costs of the Century Commission for a Sustainable Florida.

Section 26. Directs the Division of Statutory Revision of the Office of Legislative Services to prepare proposed legislation to changes references to reflect the name change for the DCA.

Section 27. Provides for an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

General Revenue Fund (nonrecurring Fixed Capital Outlay)

Amount	To	Purpose
\$450 million	DOT	Local Government Concurrency Program for Sustainable Transportation
\$50 million	DOT	Off-System Bridge Program for Sustainable Transportation
\$35 million	DOE	Charter School Incentive Program for Sustainable Schools
\$15 million	DOE	Educational Facilities Benefit Districts
\$100 million	DEP	Funding for Sustainable Water
\$650 million	TOTAL	

General Revenue Fund (nonrecurring Expense)

Amount	To	Purpose
\$500,000	DCA	Small County Technical Assistance for a Sustainable Florida
\$250,000	DCA	Staffing for Century Commission for a Sustainable Florida
\$750,000	TOTAL	

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Some counties and municipalities will benefit through receipt of grants funds provided for in this bill.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potential positive impact on the private sector by virtue of the emphasis on urban infill and redevelopment and the benefits associated with the achievement and maintenance of public facilities levels of service.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

3. Other: None.

B. RULE-MAKING AUTHORITY:

The Department of Transportation is authorized to promulgate rules related to the Local Government Concurrency Program for Sustainable Transportation, pursuant to s. 339.2820(6), F.S., created in section 13 of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues:

None.

Other Comments:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Growth Management Committee adopted five amendments to the PCB as described below:

- Amendment No. 1. Amended the language of s. 1(4), lines 68 through 71, that contained typographical errors in the name of the board; did not adequately identify the Department of Transportation; and did not specify a chair for the governing board.
- Amendment No. 2. Amended the language of s. 1(11), lines 203 through 205, delete a redundant provision, specifically subsection (11)(e).
- Amendment No. 3. Amended the language of s. 2, lines 264 through 265, to clarify that the appropriation was to the Department of Community Affairs for staffing and others costs associated with the pilot project.
- Amendment No. 4. Amended the language of s. 2(3)(a), line 302, to provide for the staggering of all nine members of the commission, three every two years following appointment of the initial board.
- Amendment No. 5. Amends line 360 to delete a redundant phrase.

On April 6, 2005, the Local Government Council adopted five amendments to the bill as described below:

- Amendment No. 1. This amendment corrects the provision establishing staggered terms for board members of the Century Commission.
- Amendment No. 2. This amendment makes a technical correction.
- Amendment No. 3. This amendment requires a regional planning area to include the Florida Keys Area, a designated area of critical state concern.
- Amendment No. 4. This amendment requires the Regional Planning Area Governing Board to address certain issues in its final report, as appropriate, including recommendations regarding intergovernmental cooperation, dedicated sources of funding for infrastructure, and the need for balancing environmental protection with future growth.
- Amendment No. 5. This amendment requires the Century Commission to include similar discussions and recommendations in its annual report.

On April 19, 2005, the Transportation & Economic Development Appropriations Committee adopted one strike everything amendment. The amendment:

- Creates the “Sustainable Florida Act of 2005” and provides legislative intent. The bill declares urban infill and redevelopment as a high state priority and promotes such development through relaxed procedures and state funding incentives.
- Strengthens concurrency requirements, creates certain financial feasibility requirements, and strengthens intergovernmental coordination requirements, for schools, roads and water to mitigate against over -capacity and demand issues resulting from continued growth in the state’s population. To ensure that these strengthened concurrency requirements do not result in forcing development out of urbanized areas and into undeveloped rural or agricultural areas, the amendment creates incentives to encourage urban infill and redevelopment.
- Provides for proportionate-share mitigation (or pay-as-you-go) to make sure that current development is not constrained by, or assessed for, impacts related to system backlogs and facilities deficits.
- Makes corresponding changes to several elements of the local comprehensive plan including: the capital improvement element, the future land use element, the traffic circulation element, the water related element, the intergovernmental coordination element, and the public educational facilities element. Further, the amendment requires certain assessments and evaluations in conjunction with the evaluation and appraisal report.
- Creates the “Century Commission for a Sustainable Florida,” a standing body to help Floridians to envision and plan for Florida’s growth 25 to 50 years into the future.
- Provides \$500 million to fund two transportation programs: \$450 million for the Local Government Concurrency Grant Program for Sustainable Transportation and \$50 million for the Off-System Bridge Grant Program for Sustainable Transportation.
- Provides \$100 million from the General Revenue Fund to the Department of Environmental Protection to fund the development of alternative water supplies.
- Provides \$35 million to address school over capacity issues or to address growth demands within a county; and \$15 million to incentivize the creation of Educational Facilities Benefit Districts, from the General Revenue Fund to the Department of Education.
- Provides \$500,000 from the General Revenue Fund to the Department of Community Assistance to promote good growth practices within rural counties with populations of less than 50,000 individuals.

- Provides \$250,000 from the General Revenue Fund to the Department of Community Assistance for staffing and other assistance in support of the Century Commission for a Sustainable Florida.
- Directs the Office of Program Policy Analysis and Government Accountability to conduct a study on the better alignment of several entities to create a more unified system of regional boundaries.
- Provides an effective date of July 1, 2005.

On April 21, 2005, the State Infrastructure Council adopted one strike all amendment. The amendment made the substantive changes described below.

Transportation

- Added the MPO process to the local government capitol improvement plan project list for certain projects.
- Deleted the rural economic areas from the funding criteria.
- Added a formula for distribution of the Local Government Concurrency Program.

Schools

- Changed the due date for the public educational facilities element to December 1, 2008 and provided that DCA could grant a 1-year extension if for good and sufficient cause.

Capital Improvement Element

- Amended the capital improvements element to require the amendment be done by a comprehensive plan amendment rather than by ordinance. The amendment would have one hearing and the DCA would have a compliance determination. The only litigation that would arise out of this is if DCA found the amendment not in compliance.

Statewide Technical Assistance for Sustainable Florida

- Increased the scope of DCA's technical assistance to statewide; and increased the funding level to \$3 million.

Charter School Incentive Program for Sustainable Schools

- Holds harmless existing charter schools from a reduction in capital outlay funds.