

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Ways and Means Committee

BILL: CS/CS/CS/SB 360

SPONSOR: Ways and Means Committee, Transportation Committee, Community Affairs Committee and Senator Bennett

SUBJECT: Growth Management/Infrastructure Funding

DATE: April 26, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
3.	<u>Herring</u>	<u>Coburn</u>	<u>WM</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires a local government's comprehensive plan to be financially feasible and the capital improvements element in a local comprehensive plan to include a schedule of improvements that ensure the adopted level-of-service standards are achieved and maintained. Also, it requires an annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements. The bill strengthens the link between development approval and water supply planning. Specifically, the potable water element must incorporate water supply projects identified by the local government from the regional water supply plan or proposed by the local government within 18 months after the update of the regional water supply plan.

The 1985 Growth Management Act required "public facilities and services" availability be concurrent with development. This bill includes schools in the list of infrastructure that is subject to the concurrency requirement on a statewide basis. Transportation facilities must be in place when the local government approves a building permit or its functional equivalent that results in traffic generation or the facility must be under actual construction within 3 years of such approval. The bill requires a local government's comprehensive plan to include proportionate fair-share mitigation for schools, parks and recreation, and transportation.

A local government is encouraged to develop a community vision. The process of developing a community vision requires the local government to hold a workshop with stakeholders and two public hearings. Also, a local government is encouraged to adopt an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year planning timeframe. The establishment of an urban service boundary does not preclude development outside the boundary.

As an incentive for development within the urban service boundary, the bill provides for small scale amendment review for map amendments within the boundary and an exemption from development-of-regional-impact review for proposed development within an urban service boundary established under s. 163.3177(14), F.S. It also provides an exemption from development-of-regional-impact review for proposed development within a Rural Land Stewardship Area if the local government has entered into a binding agreement with certain jurisdictions and the FDOT regarding the mitigation of certain impacts and has adopted a proportionate fair share methodology.

A county that has adopted an urban service boundary and a community vision may levy the charter county transit system surtax and the infrastructure surtax under s. 212.055, F.S., by majority vote. A small county that has adopted a community vision and an urban service boundary may levy the infrastructure surtax and small county surtax under s. 212.055, F.S., by majority vote for a combined rate of up to 2 percent. Also, the bill allows the school board to levy the school capital outlay surtax by majority vote of the school board.

A county that has adopted a community vision may levy the local option fuel tax and the ninth-cent fuel tax by majority vote. This bill also provides for the indexing of local option gas taxes.

In addition, the bill allows a local government to rely on the first 3 years of the Florida Department of Transportation's (FDOT) adopted work program relating to the State Transportation Trust Fund for planning and concurrency purposes.

The Office of Program Policy Analysis and Government Accountability is directed to perform a study by December 31, 2005, regarding adjustments to the boundaries of the Florida Regional Planning Councils, Florida Water Management Districts, and Florida Department of Transportation Districts. The bill creates the 21-member Century Commission with its members to be appointed by the Governor. One member will be designated by the Governor as Chairman.

The bill establishes the Transportation Regional Incentive Program for the purpose of providing funds to improve regionally significant facilities in regional transportation areas. For a 2-year period, the bill allows the FDOT to include right-of-way services as part of certain design-build contracts and to combine the design and construction phases of any project into a single contract.

The bill appropriates \$1.5 billion for 2005-2006 to fund specified transportation, school, and water projects. It appropriates \$750 million annually, thereafter, to fund these types of projects.

This bill substantially amends the following sections of the Florida Statutes: 163.3164, 163.3177, 163.31777, 163.3180, 163.3184, 163.3191, 212.055, 206.41, 336.021, 336.025, 339.135, 337.107, 337.11, 380.06, 1013.33, 206.46, 339.08, 339.155, 339.175, 339.55, 1013.64, 1013.65, and 201.15. The bill creates sections 163.3247 and 339.2819 of the Florida Statutes. It also repeals section 163.31776 of the Florida Statutes.

II. Present Situation:

Florida's current growth management system includes: ss. 163.3161-163.3246, F.S., the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; chapter 380, F.S., the Florida Environmental Land and Water Management Act, that includes the Development of

Regional Impact (DRI) and the Areas of Critical State Concern programs; chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and chapter 187, F.S., the State Comprehensive Plan.

Recent changes to the state's growth management laws have included increasing coordination between school districts and local governments in the planning of educational facilities; allowing concurrency requirements, except for transportation, to be waived in urban infill and redevelopment areas; broadening standing to include property owners who abut a parcel with a proposed land use change, but do not reside in the same jurisdiction; revising the process for adopting plan amendments from a two-step to a one-step process with reduced timeframes for state review in some circumstances; providing for owners, developers, and applicants to use the methods available to third parties to appeal and challenge a development order's consistency with the comprehensive plan; creating an alternative special master process for quasi-judicial proceedings relating to development order challenges; and, establishing the Local Government Comprehensive Plan Certification Program as a successor to the Sustainable Communities Program.

Notwithstanding the changes to the Growth Management Act over the years, infrastructure – roads, schools, and water supply facilities – are often not available concurrent with new development. Even with impact fees, state and federal funds, and other revenue sources, local governments have inadequate funding to serve existing and new development. This has led to an estimated \$35 billion shortfall over the next decade.

Infrastructure Funding Sources

The term “infrastructure” may include fire protection, law enforcement, transportation, water, sewer, garbage, solid waste, economic development, libraries, parks and recreation, and hospitals.¹ Local infrastructure needs are financed through local revenue sources such as “user fees, ad valorem monies, local option taxes, special assessments, and impact fees, as well as through bond issues and debt.”² Nearly all local governments in Florida report experiencing infrastructure deficits to some degree.³ The extent of Florida's infrastructure deficit and future need is difficult to quantify. However, estimates for metropolitan portions of the state's local transportation needs alone range between \$7 billion and \$22 billion and water project infrastructure needs require another \$14 billion.⁴

There are a number of local option taxes authorized by the Legislature, including several types of local discretionary sales surtaxes and local option fuel taxes. Flexibility in the levy of some of these taxes may encourage local governments to use these sources of additional revenue for infrastructure funding. Section 212.054, F.S., authorizes local governments to levy several types of sales surtaxes. These taxes are applicable to all transactions subject to the state sales tax including sales, use, services, rentals, admissions, and other authorized transactions. However, the tax does not apply to any amount over \$5000 on any item of tangible personal property or on long distance phone service. The Department of Revenue is responsible for administering, collecting, and enforcing local discretionary sales surtaxes. The proceeds are transferred to the Discretionary Sales Surtax Trust Fund. The department distributes these funds using a distribution factor for each county.

¹ See *Local Infrastructure Funding Options*, Legislative Committee on Intergovernmental Relations (June 2002), pg. 2.

² See *id.*

³ See *id.*

⁴ See *id.*

Local Government Infrastructure Surtax

The Local Government Infrastructure Surtax⁵ may be levied at a rate of 0.5 or 1 percent by ordinance if enacted by a majority of the county's governing body and approved in a countywide referendum. Alternatively, the municipalities representing a majority of the county's population may adopt uniform resolutions calling for a countywide referendum. Currently, 20 counties are levying the Local Government Infrastructure Sales Surtax at 1 percent, and 3 counties are levying it at the rate of 0.5 percent. The untapped capacity for this revenue source is an estimated \$ 1.5 billion.

Charter County Transit System Surtax

Section 212.055(1), F.S., provides for the levy of the charter county transit system surtax for several uses, including the development, construction, and maintenance of a fixed guide way rapid transit system and supportive services by an expressway or transportation authority on roads and bridges in the county. There are seven eligible counties: Broward, Duval, Hillsborough, Miami-Dade, Pinellas, Sarasota, and Volusia. These counties may impose, if approved by referendum, up to a 1 percent sales surtax on most transactions taxable under ch. 212, F.S.⁶ The untapped capacity for this revenue source, if expanded to all charter counties, is an estimated \$ 1.7 billion. If expanded to both charter and non-charter counties, this estimate would be even higher depending upon the number of counties that levy the tax.

Small County Surtax

Section 212.055(3), F.S., authorizes counties with a population of 50,000 or less as of April 1, 1992, to levy a half percent or 1 percent tax by referendum or by extraordinary vote of the county governing board. Eligible counties may, by extraordinary vote, levy the tax to be expended for operating purposes. If the funds are to be used for bond indebtedness, the tax must be approved by referendum. Currently, twenty-one counties are levying the Small County Surtax at the rate of 1 percent.⁷ By raising the cap to 2 percent on the Small County Surtax, the unrealized capacity for this revenue is an estimated \$ 12.5 million.

A county may not combine the Local Government Infrastructure Surtax, Small County Surtax, Indigent Care/Trauma Center Surtax, the County Public Hospital Surtax, and the Voter-Approved Indigent Care Surtax in excess of a combined rate of 1 percent.

School Capital Outlay Surtax

School boards may levy a School Capital Outlay Surtax up to 0.5 percent pursuant to a resolution that requires the approval of a majority of voters in a countywide referendum. Proceeds from this surtax must be expended on school-related capital projects, technology implementation, or the bond financing of those projects. Any school district is eligible to impose this surtax by resolution subject to voter approval. To date, Bay, Escambia, Flagler, Gulf, Hernando, Jackson, Leon, Manatee, Monroe, Orange, Polk, St. Lucie, Santa Rosa, and Volusia counties have levied this surtax.⁸ The untapped capacity for this revenue source is an estimated \$ 835 million.

County Local Option Fuel Tax

⁵ Section 212.055(2), F.S.

⁶ 2004 Florida Tax Handbook, pg. 157.

⁷ See 2004 Florida Tax Handbook, pg. 156-8.

⁸ See *id.* at pg. 159.

Section 336.025(1)(b), F.S., authorizes counties to impose a Local Option Fuel Tax, from 1 to 5 cents, by ordinance if approved by a majority plus one vote of the county commission or by referendum. This is also known as the ELMS nickel (for the “Environment and Land Management Study” from which it originated). Counties and municipalities must spend any proceeds from the ELMS nickel on transportation expenditures necessary to meet the requirements of the capital improvements element in the applicable comprehensive plan; to remedy local transportation problems; and for critical expenditures needed to build comprehensive roadway networks. Such expenditures include the construction of new roads, the reconstruction or resurfacing of existing paved roads, or the paving of existing graded roads, but these funds cannot be expended on routine road maintenance. To date, 17 counties have levied the ELMS nickel. Of those counties, 14 counties are levying the maximum 5-cent tax.⁹ The untapped capacity for this revenue source is an estimated \$ 227 million.

Ninth-Cent Fuel Tax

Section 336.021, F.S., authorizes the levy of the ninth-cent fuel tax by any county by an extraordinary vote of the governing body or by referendum. Currently, 43 counties levy this tax. The untapped capacity for this revenue source is an estimated \$ 22.5 million.

School Concurrency

In 2000, almost 40 percent of Florida’s public schools were at 90 percent or greater capacity. The Legislature enacted Senate Bill 1906 in 2002 that focused on school planning through coordination of information between local governments and school boards. This is accomplished by a required interlocal agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure, collocation and joint use of civic and school facilities, and sharing of development and school construction information. These interlocal agreements are reviewed and approved by DCA with the assistance of the Department of Education. A local government or school board that does not enter into an interlocal agreement is subject to financial sanctions. There are exemptions from the statutory requirements for those local governments that do not require increased capacity because they are not experiencing growth in school age populations. Those exemptions are available if certain conditions are met, such as when no schools are found within the jurisdiction's boundaries and when 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 will be: for students in prekindergarten 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. There are indications that the current number of available teachers is insufficient to both meet the amendment’s requirements and to replace currently employed teachers 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

⁹ See *id.* at pg. 164-5.

is known as concurrency. Transportation concurrency uses a graded scale of roadway level of service (LOS) standards assigned to all public roads. The LOS standards are a proxy for the allowable level of congestion on a given road in a given area. Stringent standards (i.e., fewer vehicles allowed) are applied in rural areas and easier standards (i.e., more vehicles) are allowed in urban areas to help promote compact urban development. Over the years it became apparent that irrespective of the easier standards in urban areas, new developments are often located in rural areas due to an abundance of highway capacity on rural roads. In 1992, Transportation Concurrency Management Areas were authorized, allowing an areawide LOS standard (rather than facility-specific) to promote urban infill and redevelopment and provide greater mobility in those areas through alternatives such as public transit systems. Subsequently, two additional relaxations of concurrency were authorized: Transportation Concurrency Exception Areas (TCEA) and Long-term Transportation Concurrency Management Systems. Specifically, the TCEA is intended to “reduce the adverse impact transportation concurrency may have on urban infill and redevelopment” by exempting certain areas from the concurrency requirement. Long-term Transportation Concurrency Management Systems are intended to address significant backlogs.

The Florida Department of Transportation (FDOT) is responsible for establishing level-of-service standards on the highway component of the Strategic Intermodal System (SIS) and for developing guidelines to be used by local governments on other roads. Local governments, however, have broad discretion in the implementation of transportation concurrency because they designate the concurrency management strategies and exception areas within their boundaries, and control land use decisions within their jurisdictions.

The SIS consists of statewide and interregionally significant transportation facilities and services and plays a critical role in moving people and goods to and from other states and nations, as well as between major economic regions in Florida. As such, the SIS is the primary focus of state transportation resource investment. FDOT works with Florida’s 26 metropolitan planning organizations (MPO) to identify regionally significant facilities. Composed of elected officials representing local governments, MPOs exist as a result of federal law requiring a continuing, coordinated, and comprehensive transportation planning process in urban areas with populations over 50,000. MPOs have no control over land use decisions. Each MPO is responsible for developing a 20-year Long-Range Transportation Plan (LRTP) which is updated every 3 to 5 years. To implement the LRTP, each MPO annually develops a financially-feasible Transportation Improvement Program (TIP) which programs funds to specific projects over a 5-year schedule. To varying degrees based on their size, MPOs work with FDOT to determine priorities for transportation projects in their jurisdictions. FDOT compiles the 26 TIPs, along with SIS and non-metropolitan projects into the FDOT five-year work program which serves as the statewide TIP.

The FDOT adopted work program plays a crucial role in transportation concurrency. The adopted work program stands as a commitment to local governments and developers that certain, specified transportation projects will be in place or under construction within a certain time. Under current law, a development may be granted a certificate of occupancy and meet concurrency requirements if the relevant transportation project is programmed for construction in the FDOT adopted work program not more than three years from the issuance of the certificate. If the relevant project is part of the Florida Intrastate Highway System, the development may be certified for occupancy five years before the project is constructed. In other words, developments may open for business three to five years prior to the needed infrastructure being in place or under construction.

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.¹⁰ 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.

Development of Regional Impact Program

Section 380.06, F.S., governs the Development of Regional Impact (DRI) program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county.¹¹ For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Chapter 28-24, Florida Administrative Code. Examples of the land uses for which guidelines are established include: airports; attractions and recreational facilities; industrial plants and industrial parks; office parks; port facilities, including marinas; hotel or motel development; retail and service development; recreational vehicle development; multi-use development; residential development; and schools.

Small Scale Plan Amendments

A local government may amend its comprehensive plan provided certain conditions are met including two advertised public hearings on a proposed amendment before its adoption and mandatory review by the DCA. A local government may amend its comprehensive plan only twice per year with certain exceptions. Small-scale plan amendments are treated differently. These amendments may not change goals, policies, or objectives of the local government's comprehensive plan. Instead, these amendments propose changes to the future land use map for site-specific small scale development activity. The DCA does not issue a notice of intent for small scale development amendments. An affected person may file a petition with the Division of Administrative Hearings to request a hearing to challenge the compliance of a small scale amendment within 30 days following the local government's adoption of the amendment. A hearing must be held no sooner than 30 days, but not later than 60 days after, the filing of the petition and assignment of an administrative law judge. The burden of proof for a petition challenging the consistency of a small scale amendment is preponderance of the evidence.

III. Effect of Proposed Changes:

Section 1 Amends s. 163.3164, F.S., to define the term "financial feasibility."

Section 2 Amends s. 163.3177(2), F.S., to require a local government's comprehensive plan to be financially feasible. It amends subsection (3) to require that the capital improvements element in a local

¹⁰ Pursuant to Section 163.3191, F.S., "each local government shall adopt an evaluation and appraisal report (EAR) once every seven years assessing the progress in implementing the local government's comprehensive plan." The report evaluates how successful a community has been in addressing major community land use planning issues through implementation of its comprehensive plan. Based on this evaluation, the report suggests how the plan should be revised to better address community objectives, changing conditions and trends affecting the community, and changes in state requirements regarding growth management.

¹¹ S. 380.06(1), F.S.

comprehensive plan include a schedule of improvements to ensure the adopted level-of-service standards are achieved and maintained. Capital improvements to be funded by a developer must be supported by an enforceable development agreement. If the planned revenue sources are not realized, the local government must identify other sources to fund capital projects or amend its comprehensive plan. The schedule must be coordinated with the applicable metropolitan planning organizations long-range transportation plan.

This bill requires an annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements. Amendments to include the required schedule in the capital improvements element must be filed no later than December 1, 2007. A local government may not adopt any map amendments after December 1, 2007, unless and until the annual update has been adopted and transmitted to DCA. Amendments to the 5-year schedule of capital improvements adopted after July 1, 2005, are not subject to challenge by an affected party. However, the local government has standing to challenge if DCA finds the amendment is not compliance.

If a local government cannot adequately address the deficit in level-of-service standards for existing development in a 10-year plan, DCA may allow the plan to address the deficit to be extended over a 15-year period.

Subsection (6) of s. 163.3177, F.S., is amended to strengthen the link between development approval and water supply planning. Within 18 months after the governing board approves an updated regional water supply plan, the potable water element must incorporate water supply projects identified by the local government from the regional water supply plan or proposed by the local government.

Subsection (12) of s. 163.3177, F.S., is amended to require a county and each municipality to adopt a consistent public school facilities element and to enter into an interlocal agreement under s. 163.31777, F.S. The local governments may receive a waiver from this requirement if Department of Community Affairs (DCA) determines certain criteria have been met. The DCA must set a schedule to ensure each local government adopts the element and updates the interlocal agreement by December 1, 2008. These plan amendments are exempt from the twice-per-year limitation on the frequency of plan amendments.

Subsection (13) is added to encourage local governments to develop a community vision. The process of developing a community vision requires the local government to hold a workshop with stakeholders and two public hearings. It provides a grandfather clause for local governments that have developed a community vision between July 1, 2000, and July 1, 2005, that substantially meets the objectives, goals, and policies of this subsection and the vision is reflected in the comprehensive plan or land development regulations.

Subsection (14) encourages local governments to adopt an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year planning timeframe. The establishment of an urban service boundary does not preclude development outside the boundary.

A county that has adopted an urban service boundary may levy the charter county transit system surtax and the infrastructure surtax under s. 212.055, F.S., by majority vote. A small county that has adopted a community vision and an urban service boundary may levy the infrastructure surtax and small county surtax under s. 212.055, F.S., by majority vote for a combined rate of up to 2 percent.

A county that has adopted a community vision may levy the local option fuel tax and the ninth-cent fuel tax by majority vote.

Section 3 repeals s. 163.31776, F.S., relating to the public educational facilities element in a comprehensive plan.

Section 4 amends s. 163.31777, F.S., relating to the public schools interlocal agreement. It eliminates language making it optional to include a process in the interlocal agreement that requires a school board to inform the local government of the effect of comprehensive plan amendments on school capacity. The bill also revises the language providing an exemption for municipalities from the interlocal agreement requirement.

Section 5 amends s. 163.3180, F.S., to include schools in the list of infrastructure subject to the concurrency requirement on a statewide basis. Transportation facilities must be in place when the local government approves the issuance of a building permit or its functional equivalent that results in traffic generation or the facility must be under actual construction within 3 years of such approval. When establishing adequate level-of-service standards for arterial and collector roads, a local government must consider the roadway facility's adopted level-of-service standards in adjacent jurisdictions.

Also, this bill requires local governments to consult with FDOT prior to the designation of a transportation concurrency exception area (TCEA), transportation concurrency management area (TCMA) or multimodal transportation district (MMTD) to address the area's or district's impact on the adopted level-of-service standards for the Strategic Intermodal System facilities within the area or district.

The bill encourages local governments to initially apply school concurrency on a district-wide basis. Within five years after the adoption of school concurrency, local governments are required to apply school concurrency on a less than district-wide basis.

The bill requires school facilities to be adequate within 3 years of final subdivision or site approval. It provides mitigation options for schools, including the contribution of land. In addition, the local government has to credit the developer for certain payments on a dollar-for-dollar basis. This bill clarifies that the school concurrency provision does not limit the authority of a local government to deny a development permit or its functional equivalent pursuant to its home-rule powers, except as provided in part II of ch. 163, F.S.

This bill requires a local government to specifically authorize proportionate fair-share mitigation in its comprehensive plan for transportation, parks and recreation, and public schools at the project level. A local government's land development regulations must include methodologies to calculate proportionate fair-share mitigation. Proportionate fair-share mitigation must include cash payments, contribution of land, and construction and contribution of facilities. It allows a local government to impose proportionate fair-share mitigation on projects prior to the failure of a facility to meet level-of-service standards, but requires such mitigation to be applied to an impacted transportation facility to the maximum extent possible.

By December 1, 2006, each local government is required to adopt a transportation concurrency management system by ordinance. By December 1, 2005, the FDOT must develop a model transportation concurrency management ordinance.

Section 6 Amends s. 163.3184, F.S., to provide for small-scale plan amendment review on map amendments within an established urban service boundary.

Section 7 Amends s. 163.3191, F.S., to require a municipality that no longer meets the exemption criteria for a public school's interlocal agreement to enter into such agreement in order to fully participate in the school concurrency system.

It requires a local government's evaluation and appraisal report (EAR) to determine how successful the local government has been in identifying alternative and traditional water supply projects and the degree to which the work plan for water supply facilities has been implemented, including the development of alternative water supplies.

The EAR must also evaluate the extent to which a concurrency exception area, concurrency management area, or a multimodal district has achieved its purpose. Also, it must assess the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities to implement a concurrency management system.

This bill requires amendments based on an evaluation and appraisal report to be adopted during a single amendment cycle within 18 months after the report is determined to be sufficient. Failure to adopt such amendments will result in a prohibition against any further plan amendments by the local government until the EAR amendments have been adopted and transmitted to DCA. The prohibition commences when the update amendments are past due. Also, a local government must provide a copy of the updated comprehensive plan within 6 months after the effective date of the updated amendments to DCA and all agencies designated by rule.

Section 8 Amends s. 212.055, F.S., to allow a county that has adopted a community vision and an urban service boundary to levy the charter county transit system surtax and the infrastructure surtax provided in s. 212.055, F.S., by majority vote. The charter county transit system surtax is expanded to allow a non-charter to levy this surtax under certain circumstances for regionally significant transportation projects. The county proceeds from the levy of the charter county transit surtax and the infrastructure surtax may only be expended within the urban service boundary, with the exception of regionally significant transportation projects. A municipality within a county that levies this tax by a majority vote may not share in the tax proceeds unless it has also completed this requirement.

Also, a small county that has adopted a community vision and an urban service boundary may levy the infrastructure surtax and small county surtax under s. 212.055, F.S., by majority vote for a combined rate of up to 2 percent. The bill allows a county to levy the school capital outlay surtax by majority vote of the school board.

The levy of any of these taxes by majority vote requires the establishment of an advisory board to make recommendations to the county commissioners regarding the project list. The advisory board must hold at least 2 public workshops to develop a project list and the county must hold at least two public hearings. Any amendments to the project list would require a notice of intent by the county commission

to add or remove projects recommended by the advisory board. The bill does not allow the project list to be approved at the same public meeting at which it is amended. Once the project list has been approved by the board of county commissioners, the county may adopt the ordinance enacting the tax at a subsequent public meeting.

Section 9 Amends s. 206.41, F.S., to provide for the indexing of local option gas taxes.

Section 10 Amends s. 336.021, F.S., to authorize a county to levy the ninth-cent gas tax by majority vote of the local governing body. A county must adopt a community vision under s. 163.3177(13), F.S., before levying this tax by majority vote. A municipality within a county that levies this tax by a majority vote may not share the tax proceeds unless it has also completed this requirement.

Section 11 Amends s. 336.025, F.S., to authorize a county to levy the local option fuel tax by majority vote of the local governing body. A county must adopt a community vision under s. 163.3177(13), F.S., before levying this tax by majority vote. A municipality within a county that levies this tax by a majority vote may not share in the tax proceeds unless it has also completed this requirement.

Section 12 Amends s. 339.135, F.S., to allow local governments to rely on the first 3 years of the adopted work program relating to the State Transportation Trust Fund for planning and concurrency purposes.

Section 13 Directs the Office of Program Policy Analysis and Government Accountability to perform a study by December 31, 2005, regarding adjustments to the boundaries of the Florida Regional Planning Councils, Florida Water Management Districts, and Department of Transportation Districts. This study must be submitted to the Governor and the Legislature by January 15, 2006.

Section 14 Creates s. 163.3247, F.S., establishing the Century Commission as a standing body to help Florida's citizens envision and plan their collective future with an eye towards both 25-year and 50-year horizons. The 21 members of the Commission will be appointed by the Governor. One member will be designated by the Governor as Chairman. Up to four members will be members of the Legislature who will be appointed with the advice and consultation of the President of the Senate, and the Speaker of the House of Representatives. The Secretary of the Department of Community Affairs, the Commissioner of Agriculture, Secretary of the Department of Transportation, the Secretary of the Department of Environmental Protection, and the Executive Director of the Fish and Wildlife Conservation Commission will serve as voting members. The other 12 appointments must reflect the diversity of Florida's citizens, and should include individuals with interests in the following: growth management; business and economic development; environmental protection; agriculture; city government; county government; regional planning entities; education; public safety; planning; transportation planners; and urban infill and redevelopment.

Section 15 Creates s. 339.2819, F.S., to establish the Transportation Regional Incentive Program for the purpose of providing funds to improve regionally significant facilities in regional transportation areas.

Section 16 Amends s. 337.107, F.S., to allow the FDOT to include right-of-way services as part of certain design-build contracts.

Section 17 Amends s. 337.11, F.S., to allow FDOT to combine the design and construction phases of any project into a single contract.

Section 18 Amends s. 337.107, F.S., to eliminate language allowing the FDOT to include right-of-way services as part of certain design-build contracts.

Section 19 Amends s. 337.11, F.S., effective July 1, 2007, to limit the type of projects for which the FDOT may combine the design and construction phases.

Section 20 Amends s. 380.06, F.S., to provide an exemption from development-of-regional-impact review for proposed development within an urban service boundary established under s. 163.3177(14), F.S. It also provides an exemption from development-of-regional-impact review for proposed development within a Rural Land Stewardship Area if the local government has entered into a binding agreement with jurisdictions that would be impacted and the FDOT regarding the mitigation of impacts on state and regional transportation facilities, and has adopted a proportionate fair share methodology.

Section 21 Amends s. 1013.33, F.S., to make conforming changes to the requirements for an interlocal agreement between local governments and district school boards.

Section 22 Amends s. 206.46, F.S., to increase the threshold for maximum debt service for transfers in the State Transportation Trust Fund.

Section 23 Amends s. 339.08, F.S., to provide for the expenditure of moneys in the State Transportation Trust Fund for specified purposes.

Section 24 Amends s. 339.155, F.S., to provide for the development of regional transportation plans in Regional Transportation Areas.

Section 25 Amends s. 339.175, F.S., to make conforming changes to provisions of this act.

Section 26 Amends s. 339.55, F.S., to provide for loans for certain projects from the state-funded infrastructure bank within the FDOT.

Section 27 Amends s. 1013.64, F.S., to provide that funds distributed to the Public Education Capital Outlay and Debt Service Trust Fund pursuant to s. 201.15(1)(d), F.S., must be expended to fund the Classrooms for Kids Program created in s. 1013.75, F.S.

Section 28 Amends s. 1013.65, F.S., to make conforming changes to section 27 of this bill.

Section 29 Amends s. 201.15, F.S., to annually provide \$575 million to the State Transportation Trust Fund, \$100 million to the Water Protection and Sustainability Program Trust Fund, and \$75 million to the Public Education Capital Outlay and Debt Service Trust Fund from the taxes collected under s. 201.15, F.S.

Section 30 Appropriates moneys from the General Revenue Fund for the 2005-2006 fiscal year on a non-recurring basis and in quarterly installments to the following trust funds:

- \$575 million to the State Transportation Trust Fund.
- \$100 million to the Department of Environmental Protection for the Water Protection and Sustainability Program Trust Fund.
- \$73.75 million to the Public Education Capital Outlay and Debt Service Trust Fund within the Department of Education.
- \$1.25 million to the Grants and Donations Trust Fund within DCA.

The bill then appropriates the amounts from the trust funds above for the 2005-2006 fiscal year on a non-recurring basis to be expended as follows:

- \$575 million for specified transportation programs.
- \$100 million from the Department of Environmental Protection Water Protection and Sustainability Program Trust Fund.
- \$73.75 million from the Department of Education Public Education Capital Outlay and Debt Service Trust Fund to fund the Classrooms for Kids program.
- \$1 million from the DCA Grants and Donations Trust Fund to provide technical assistance to local governments and school boards.
- \$250,000 to support the Century Commission created by this act.

Section 31 Provides effective dates.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill requires counties to engage in planning activities that will require them to expend funds. However, the revenue sources in the bill, available to counties with a majority vote of the governing body, and the state appropriations will help defer any administrative costs.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill authorizes counties to levy certain local option taxes by majority vote rather than by referendum, extraordinary vote, or a majority plus one. Also, this bill provides for the indexing of local option gas taxes. Residents of counties levying these taxes will experience an increase in the price of certain items.

B. Private Sector Impact:

This bill assumes that certain local revenues, discussed under "Government Sector Impact" below, may be increased to provide up to \$4.46 billion new funding. Such increases could come from sales tax increases from the Charter County Transit System Surtax, the Local Government Infrastructure Surtax, the Small County Surtax, and the School Capital Outlay Surtax as well as from fuel tax increases from the Ninth-Cent Fuel Tax, the County Local Option Motor Fuel Tax.

This bill would have a positive fiscal impact on the private sector by providing needed infrastructure which leads to increased economic development. Also, the price of certain goods will increase if a county levies a local option tax using the more flexible methods in this bill.

C. Government Sector Impact:

The bill requires a local government to amend its comprehensive plan. Also, the DCA and FDOT have additional responsibilities to review certain amendments, updates, and proposed level-of-service standards.

The unrealized revenue capacity for these local option taxes would provide an estimated \$4.46 billion for local governments that could be bonded to fund transportation, school, and water supply facilities.

Analysis of Committee Substitute for Senate Bill 360							
Estimation of Unrealized Revenues in Calendar Year 2005 for Applicable Local Option Taxes							
<i>See Table Notes for Assumptions</i>							
County	Local Option Fuel Taxes		Local Discretionary Sales Surtaxes				Grand Totals
	Ninth-Cent Fuel Tax	1 to 5 Cents Local Option Fuel Tax	Charter County Transit System Surtax	Local Gov't Infrastructure Surtax	Small County Surtax	School Capital Outlay Surtax	County Governments
Alachua	\$ -	\$ 5,307,185	\$ 27,089,541	\$ 20,317,156	\$ -	\$ 13,544,771	\$ 66,258,652
Baker	-	694,380	-	1,325,218	-	662,609	2,682,207
Bay	881,008	4,083,475	-	26,095,962	-	-	31,060,445
Bradford	165,007	764,810	-	1,993,522	-	996,761	3,920,100
Brevard	2,431,287	11,269,015	61,326,222	61,326,222	-	30,663,111	167,015,857
Broward	-	-	260,728,475	260,728,475	-	130,364,238	651,821,188
Calhoun	54,530	252,745	-	651,328	-	325,664	1,284,267
Charlotte	829,620	-	20,279,338	-	-	10,139,669	31,248,627

County	Local Option Fuel Taxes		Local Discretionary Sales Surtaxes				Grand Totals
	Ninth-Cent Fuel Tax	1 to 5 Cents Local Option Fuel Tax	Charter County Transit System Surtax	Local Gov't Infrastructure Surtax	Small County Surtax	School Capital Outlay Surtax	County Governments
Citrus	576,100	2,670,220	-	11,082,512	-	5,541,256	19,870,088
Clay	-	3,278,940	17,055,695	-	-	8,527,848	28,862,483
Collier	-	-	-	55,608,767	-	27,804,384	83,413,151
Columbia	-	-	6,365,886	6,365,886	-	3,182,943	15,914,715
De Soto	-	-	-	2,214,860	-	1,107,430	3,322,290
Dixie	55,806	258,660	-	-	690,190	345,095	1,349,751
Duval	4,350,656	20,165,290	63,504,705	63,504,705	-	63,504,705	215,030,061
Escambia	-	6,368,590	-	-	-	-	6,368,590
Flagler	-	1,604,380	-	2,599,127	5,198,253	-	9,401,760
Franklin	69,538	322,310	-	1,276,218	1,276,218	638,109	3,582,393
Gadsden	282,172	1,307,870	-	2,604,608	-	1,302,304	5,496,954
Gilchrist	-	277,840	-	620,099	-	310,050	1,207,989
Glades	-	185,065	-	-	386,736	193,368	765,169
Gulf	48,910	226,700	-	1,070,422	1,070,422	-	2,416,454
Hamilton	95,481	442,555	-	-	662,521	331,261	1,531,817
Hardee	-	592,470	-	1,522,566	-	761,283	2,876,319
Hendry	-	266,862	-	2,787,078	-	1,393,539	4,447,479
Hernando	-	1,643,894	-	12,311,728	-	-	13,955,622
Highlands	-	-	-	-	-	4,436,645	4,436,645
Hillsborough	-	25,837,660	177,211,752	-	-	88,605,876	291,655,288
Holmes	88,677	411,015	-	796,905	-	398,453	1,695,049
Indian River	662,815	3,072,145	-	-	-	9,283,287	13,018,247
Jackson	-	1,455,020	-	3,613,758	-	-	5,068,778
Jefferson	-	478,690	-	645,791	-	322,896	1,447,377
Lafayette	20,634	95,640	-	-	294,920	147,460	558,654
Lake	-	5,574,355	-	-	-	13,027,064	18,601,419
Lee	-	-	93,500,714	93,500,714	-	46,750,357	233,751,785
Leon	-	5,374,210	34,757,859	-	-	-	40,132,069
Levy	199,485	924,610	-	2,956,397	-	1,478,199	5,558,690
Liberty	-	112,715	-	284,783	-	142,392	539,890
Madison	123,238	571,205	-	955,805	-	477,903	2,128,150
Manatee	-	6,454,925	-	39,003,874	-	-	45,458,799
Marion	-	7,586,675	-	36,702,838	-	-	44,289,513
Martin	-	-	-	23,349,398	-	11,674,699	35,024,097
Miami-Dade	-	18,502,686	159,888,572	159,888,572	-	159,888,572	498,168,401
Monroe	582,494	2,699,860	-	-	-	-	3,282,354
Nassau	-	1,217,370	-	6,703,032	-	3,351,516	11,271,918
Okaloosa	-	4,541,350	-	29,029,794	-	14,514,897	48,086,041
Okeechobee	-	1,330,040	-	3,973,298	-	1,986,649	7,289,987
Orange	5,530,746	25,635,010	263,429,068	263,429,068	-	-	558,023,892
Osceola	-	5,617,510	31,755,609	-	-	15,877,805	53,250,924
Palm Beach	-	-	199,239,589	199,239,589	-	-	398,479,178
Pasco	-	8,910,015	-	-	-	17,846,381	26,756,396
Pinellas	3,686,382	17,086,380	127,258,603	-	-	63,629,302	211,660,667

County	Local Option Fuel Taxes		Local Discretionary Sales Surtaxes				Grand Totals
	Ninth-Cent Fuel Tax	1 to 5 Cents Local Option Fuel Tax	Charter County Transit System Surtax	Local Gov't Infrastructure Surtax	Small County Surtax	School Capital Outlay Surtax	County Governments
Polk	-	-	56,360,555	28,180,278	-	-	84,540,833
Putnam	322,326	1,493,985	-	-	-	2,616,992	4,433,303
Saint Johns	830,016	3,847,125	-	19,665,148	-	9,832,574	34,174,863
Saint Lucie	-	-	-	24,417,984	-	-	24,417,984
Santa Rosa	576,963	2,674,225	-	11,081,906	-	-	14,333,094
Sarasota	-	-	57,575,676	-	-	28,787,838	86,363,514
Seminole	-	8,443,150	55,407,527	-	-	27,703,764	91,554,441
Sumter	-	1,905,755	-	3,924,158	-	1,962,079	7,791,992
Suwannee	-	-	-	2,919,640	-	1,459,820	4,379,460
Taylor	112,762	522,655	-	-	1,713,663	856,832	3,205,912
Union	-	158,700	-	588,475	-	294,238	1,041,413
Volusia	-	-	73,051,095	73,051,095	-	-	146,102,190
Wakulla	-	460,885	-	-	1,291,256	645,628	2,397,769
Walton	-	1,445,210	-	9,386,554	-	4,693,277	15,525,041
Washington	-	589,295	-	1,490,330	-	745,165	2,824,790
Florida Total	\$ 22,576,654	\$ 227,013,327	\$ 1,785,786,481	\$ 1,574,785,641	\$ 12,584,179	\$ 835,078,949	\$ 4,457,825,230

Notes (prepared by the Legislative Committee on Intergovernmental Relations):

- 1) The estimation of Ninth-Cent Fuel Tax unrealized revenues assumes the maximum levy rate of \$0.01 per gallon on motor fuel.
- 2) The estimation of 1-5 Cents Local Option Fuel Tax ("ELMS Nickel Tax") unrealized revenues assumes the maximum levy rate of \$0.05 per gallon on motor fuel.
- 3) The estimation of Charter County Transit System Surtax unrealized revenues assumes the maximum levy rate of 1% in all 19 charter counties. Currently, Duval and Miami-Dade counties levy the surtax at the rate of 0.5%. Consequently, the estimates of unrealized revenues for those counties reflect the current unutilized tax rate of 0.5%.
- 4) The estimation of combined Local Government Infrastructure Surtax and Small County Surtax unrealized revenues for "small counties" (defined as having a countywide population of 50,000 or less on April 1, 1992) assumes the maximum levy rate of 2% less the rate of any existing Local Government Infrastructure or Small County Surtax levy.
- 5) The estimation of School Capital Outlay Surtax unrealized revenues assumes the maximum levy rate of 0.5% in those 51 school districts still eligible to impose the surtax. Currently, 16 school districts (i.e., Bay, Escambia, Flagler, Gulf, Hernando, Jackson, Leon, Manatee, Marion, Monroe, Orange, Palm Beach, Polk, Saint Lucie, Santa Rosa, and Volusia) levy the surtax at the maximum rate.
- 6) As originally prepared by the LCIR staff, estimates of unrealized revenues corresponded to local fiscal year 2005 (i.e., October 1, 2004 through September 30, 2005). This analysis applies

those same estimates to calendar year 2005 (i.e., January 1, 2005 through December 31, 2005) without any further adjustment.

7) With the exception of the School Capital Outlay Surtax, municipal governments within a respective county have the potential to receive a share of the local option tax proceeds pursuant either to provisions in current law or the Proposed Committee Substitute.

8) Pursuant to current law, school districts have the potential to receive a share of the Local Government Infrastructure or Small County Surtax proceeds via an interlocal agreement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
