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: Government Efficiency Appropriations Committee

BILL: CS/CS/SB 2364

INTRODUCER: Government Efficiency Appropriations Committee, Community Affairs Committee and Senator Baker

SUBJECT: Community Redevelopment

DATE: April 18, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	**Fav/CS**
2.	Gilreath	Johansen	GE	**Fav/CS**
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5.				
6.				

I. Summary:

The bill provides for additional procedures prior to the adoption of a community redevelopment plan for a CRA in a non-charter county that has not authorized a study to consider whether a finding of necessity resolution should be adopted by June 5, 2006, has not adopted a finding-of-necessity resolution by March 31, 2007, or has not adopted a community redevelopment plan by June 7, 2007. These additional procedures also apply to a CRA in a non-charter county that modifies its redevelopment plan after October 1, 2006, to expand the boundaries of the redevelopment area.

The bill also provides limitations under certain circumstances on the required contributions of the increase in increment revenues by the taxing authority in the CRAs specified above. Notwithstanding these limitations, an area reinvestment agreement would require the increase in the contribution to continue for a specified area and be used to fund specified public and private projects and services. The agreement must specify the estimated amount to complete the project or provide the services. The increase in the contribution that is required under an area reinvestment agreement shall cease when the amount specified in the agreement has been invested.

This section also provides that alternative provisions contained in an interlocal agreement between a taxing authority and the governing body that created the CRA may supersede the provisions of this section with respect to the taxing authority. Finally, the bill requires a charter county to use registered mail to request additional documentation or information from a municipality when considering a request to delegate the powers of the CRA to a municipality and provides the timeframe within which the county must take action on the request.

This bill substantially amends the following sections of the Florida Statutes: 163.340, 163.356, 163.357, 163.360, 163.361, 163.370, and 163.410.

II. Present Situation:

In 1969, the Legislature passed the Community Redevelopment Act to provide a funding mechanism for community redevelopment efforts. Part III of chapter 163, F.S., allows a county or municipality to create a CRA to carry out redevelopment of slum or blighted areas. CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund utilizing revenues derived from tax increment financing (TIF). TIF uses the incremental increase in ad valorem tax revenue within a designated redevelopment area to finance redevelopment projects within that area.[1]

As property tax values in the redevelopment area rise above an established base, tax increment is generated by applying the current millage rate to that increase in value and depositing that amount into a trust fund.[2] Each taxing authority must annually appropriate an amount representing the "increment revenues" and deposit it in the redevelopment trust fund. These revenues are used to back bonds issued to finance redevelopment projects. For CRAs created before July 1, 2002, the redevelopment revenue bonds or other obligations shall mature within 60 years after the redevelopment plan was approved or adopted.[3] For CRAs created after July 1, 2002, such redevelopment bonds or obligations shall mature within 40 years after approval or adoption of the plan.[4]

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

(1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and,
(2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.

Section 163.360(1), F.S., provides:

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

[1] *See* David Cardwell and Harold R. Bucholz, "Tax-Exempt Redevelopment Financing in Florida," *Stetson Law Review*, Summer, 199, at 667.
[2] Id., at p. 667.
[3] Section 163.385(1)(a), F.S.
[4] Section 163.385(1)(a), F.S.

> or a combination thereof, and designated such area as appropriate for community redevelopment.

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

> [A]n area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:
>
> (a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;
> (b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
> (c) The existence of conditions that endanger life or property by fire or other causes.

"Blighted area" is defined as follows:

> [A]n area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:
>
> (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
> (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
> (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
> (d) Unsanitary or unsafe conditions;
> (e) Deterioration of site or other improvements;
> (f) Inadequate and outdated building density patterns;
> (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
> (h) Tax or special assessment delinquency exceeding the fair value of the land;
> (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
> (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
> (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
> (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;

> (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
> (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

The term "blighted area" also means any area in which at least one of the factors in (a)-(n) are present and the taxing authorities agree by interlocal agreement or by agreement with the CRA that the area is blighted. However, for purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area described in subsection (7) of s. 163.340, F.S., as outlined above.

In addition, subsection (10) of s. 163.340, F.S., defines "community redevelopment area" as follows:

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

Creation of a Community Redevelopment Agency – Any county or municipality may create a CRA upon a finding of necessity, and a finding that there is a need for a CRA to function in the county or municipality.[5] Charter counties and non-charter counties are treated differently under the Community Redevelopment Act. Section 163.410, F.S., grants charter counties exclusive authority to exercise the powers of the Act, but allows a charter county to delegate such powers to a municipality. However, charter counties do not exercise authority over a community redevelopment agency created by a municipality prior to the adoption of a county home rule charter. Also, a CRA that is created by a non-charter county may not exercise its powers within the boundaries of a municipality unless that municipality consents in a resolution.[6]

The governing board of the local government may appoint a board of commissioners of between 5 and 7 members to govern the CRA or the governing body may declare itself to be the community redevelopment agency. A governing body that consists of five members may appoint two additional persons to act as members of the CRA. Section 163.410, F.S., provides that in a home rule charter county, powers granted under part III of chapter 163, the Community Redevelopment Act, shall be exercised exclusively by the governing body of the charter county, unless the county adopts a resolution delegating CRA powers within the boundaries of a municipality to the governing body of the municipality. This limitation does not apply to a CRA created by a municipality prior to the adoption of a county home rule charter. In addition, s. 163.415, F.S., provides that if a county does not have a home rule charter, a county cannot

[5] Section 163.356(1), F.S.
[6] Section 163.415, F.S. Any powers not expressly conferred upon the county in the resolution shall continue to be exercised exclusively by the municipality within its boundaries.

exercise CRA powers within the boundaries of a municipality unless the governing body of the municipality expresses its consent by resolution.

Community Redevelopment Agency Plans – Each community redevelopment area must have an approved community redevelopment plan in conformance with the local government comprehensive plan.[7] The plan must be sufficiently complete to indicate any land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation to be carried out in the designated area.[8] This plan must also provide for the development of affordable housing in the area or state the reasons for not addressing the issue in the plan.[9] The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.[10]

Redevelopment Trust Funds and Tax Increment Financing – Section 163.387, F.S., provides for the creation of a redevelopment trust fund for each CRA. Funds allocated to and deposited into this fund are used by the CRA to finance any community redevelopment undertaken based on an approved community redevelopment plan. In tax increment financing, property values in a certain defined community redevelopment area are frozen by local ordinance at the assessed value for a particular base year. As redevelopment proceeds within the redevelopment area, the actual assessed value of property within the redevelopment area should increase.

Taxing authorities located within the community redevelopment area are required to deposit the incremental revenue received as a result of this increase in property value in a redevelopment trust fund established by the CRA. Section 163.387, F.S., specifically provides that "the annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with undertaking and carrying out of community redevelopment under this part." Section 163.340(2), F.S., defines "public body" or "taxing authority" to mean the state or any county, municipality, authority, special district as defined in s. 165.031(5), F.S., or other public body of the state, except a school district.

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

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

[7] Section 163.358(2)(a), F.S.
[8] Section 163.358(2)(b), F.S.
[9] Section 163.358(2)(c), F.S.
[10] Section 163.361, F.S.

- A water management district created under s. 373.069, F.S.

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

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

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

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

Section 163.361, F.S., governs the modification of community redevelopment plans, and authorizes CRAs -- both those created by counties and those created by cities -- to modify such plans after public notice and a public hearing. Section 163.361(1), F.S., allows amendments to the redevelopment plan to change the boundaries of a redevelopment area or the development and implementation of community policing innovations. The section places no restrictions on the size of the additions or exclusions. Nor does the section distinguish between modifications to plans in charter and non-charter counties.

III. Effect of Proposed Changes:

Section 1 amends s. 163.340, F.S., to revise the definitions for "community redevelopment area" and "taxing authority."

Section 2 amends s. 163.356, F.S., to provide that elected officials of other jurisdictions may serve, as an additional duty of office, on the board of a CRA created by s. 163.356, F.S.

Section 3 amends s. 163.357, F.S., to provide that elected officials of other jurisdictions may serve, as an additional duty of office, on the board of a CRA created by s. 163.357, F.S.

Section 4 amends s. 163.360, F.S., to provide that for any governing body in a non-charter county that has not authorized a study to consider whether a finding of necessity resolution should be adopted by June 5, 2006, has not adopted a finding-of-necessity resolution by March 31, 2007, or has not adopted a community redevelopment plan by June 7, 2007, the following additional procedures are required prior to adoption by that governing body of a community redevelopment plan.[11]

- The county shall provide written notice by registered mail to the municipal governing body and CRA, within 30 days of receiving a community redevelopment plan, if the county has competing policy goals and plans for the public funds the county would be required to contribute to the tax increment under the plan.
- The provision of timely notice of the county's alternative plans for the public funds triggers a joint public hearing, within 90 days of receipt of the plan by the county, of the board of county commissioners and the municipality that created the CRA to discuss the competing uses for the funds.
- Before the joint public hearing, the county may propose an alternative redevelopment plan to address the conditions identified in the finding of necessity.
- An alternate redevelopment plan proposed by the county must be delivered to the municipality that created the CRA at least 30 days before the joint meeting.
- A municipality may not adopt a redevelopment plan until 30 days after the joint public hearing, unless the county fails to schedule and attend the hearing within the required 90-day period.

A county and municipality may, at any time, voluntarily participate in the dispute-resolution process in ch. 164, F.S., to resolve competing policy goals related to the CRA.

Section 5 amends s. 163.361, F.S., to provide that the same additional procedures outlined in section 4 of this bill apply to a proposed expansion of the boundaries of a redevelopment area for a CRA in a non-charter county after October 1, 2006.[12]

Section 6 amends s. 163.370, F.S., to provide technical and clarifying language, and to remove a limitation on the use of tax increment funds for certain installation, construction, reconstruction,

[11] These provisions would also apply to a CRA created by a municipality before the county adopted its charter.
[12] These provisions would also apply to a CRA created by a municipality before the county adopted its charter.

repair or alteration of publicly owned capital improvement projects if 3 years have expired since the removal of the project from the CRA capital improvement plan.

Section 7 amends s. 163.387, F.S., to provide that for any governing body in a non-charter county that has not authorized a study to consider whether a finding of necessity resolution should be adopted by June 5, 2006, has not adopted a finding-of-necessity resolution by March 31, 2007, or has not adopted a community redevelopment plan by June 7, 2007, the amount of tax increment to be contributed by any taxing authority shall be limited as follows. [13]

- The millage rate of the governing body that created the trust fund shall be used to calculate the increment for the taxing authority if the taxing authority imposes a millage rate that exceeds the rate imposed by the governing body (i.e., if a municipality that created the CRA has a millage rate that is less than that of the affected county, the tax increment paid by the county would be based on the municipality's millage rate).
- A taxing authority that has contributed to a trust fund for more than 24 years may, by resolution, limit the amount of increment contributed to the trust fund to the contribution made in the fiscal year immediately preceding the adoption of the resolution, plus any increase in the increment of any area subject to an area reinvestment agreement.

These limitations also apply to a CRA in a non-charter county that modifies its adopted redevelopment plan after October 1, 2006, to expand the boundaries of the redevelopment area.[14]

Notwithstanding the limitations on the tax increment as discussed above, an area reinvestment agreement would require the increase in the contribution to continue for a specified area and be used to fund specified public or private projects and services. The term "area reinvestment agreement" is defined as an agreement between the CRA and a private party or parties that provides for all of the increment for a specific area to be reinvested in public or private projects or services, or both, including debt service to support one or more projects in the redevelopment plan. The agreement must specify the estimated amount to complete the project or provide the services. The increase in the contribution that is required under an area reinvestment agreement shall cease when the amount specified in the agreement has been invested.

This section also provides that alternative provisions contained in an interlocal agreement between a taxing authority and the governing body that created the CRA may supersede the provisions of this section with respect to the taxing authority. This section also clarifies that the obligation for a taxing authority to contribute to increment revenues ends at sixty years; that funds can be spent according to the redevelopment plan; that funds can be used to relocate residents either within or outside the CRA, and the expenses that can be paid from increment revenues include services provided by another body.

Section 8 amends s. 163.410, F.S., to require a charter county to use registered mail to request additional documentation or information from a municipality when considering a request to delegate the powers of the CRA to a municipality. If the county is unable to act on the request due to events beyond its control, the bill provides for an extension of the 120-day period to the

[13] These provisions would also apply to a CRA created by a municipality before the county adopted its charter
[14] These provisions would also apply to a CRA created by a municipality before the county adopted its charter.

next regularly scheduled meeting of the county commission during which the county must approve or deny the municipality's request for delegation. If the county does not take action, the request is deemed approved, unless the period is extended by mutual consent.

Section 9 provides the act shall take effect October 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill provides limitations under certain circumstances on the required contributions of the increase in increment revenues by the taxing authority for some CRAs.

B. Private Sector Impact:

None.

C. Government Sector Impact:

See "Tax/Fee Issues"

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.