

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7167 CS PCB GM 06-01 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	10 Y, 0 N	Grayson	Grayson
1) Transportation & Economic Development Appropriations Committee	15 Y, 1 N, w/CS	McAuliffe	Gordon
2) State Infrastructure Council	7 Y, 0 N, w/CS	Grayson	Havlicak
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 7167 is the glitch bill for CS/CS/CS/SB 360 (2005), ch. 2005-290, L.O.F., the Act, relating to infrastructure planning and funding. The bill:

- Confirms terminology to the phrase “proportionate fair-share mitigation.”
- Corrects cross-references.
- Merges language into one provision relating to the public schools interlocal agreement.
- Provides that the “under actual-construction” requirement of transportation facility concurrency is met when construction funding needed is provided in the first 3 years of the Department of Transportation’s (DOT) work plan.
- Requires DOT to publish and distribute, after public workshops, policy guidelines to assist local governments in planning to assess and mitigate impacts of proposed concurrency management areas.
- Provides a consequence for failure to timely adopt the local government proportionate fair-share mitigation methodology.
- Requires DOT to concur or withhold its concurrence, within 60 days, with the local government’s plan for mitigation of impacts to the Strategic Intermodal System (SIS) from proposed transportation exception areas. If DOT fails to respond within 60 days, it is deemed to have concurred with the mitigation.
- Makes technical appropriation corrections to Chapter 2005-290, L.O.F.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

This bill addresses inadvertent errors and other glitches contained in ch. 2005-290, L.O.F., the growth management act of the 2005 Legislative Session.

Background

The 2005 Legislature enacted ch. 2005-290, L.O.F. (the Act), relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session. As a result, the Act contains a number of matters that may require correction or clarification.

Effect of Proposed Changes

Terminology for Proportionate Share

As outlined in the table below, the Act utilizes seven different terms to refer to the concept of "proportionate fair-share mitigation." The Florida Department of Transportation (DOT) utilized the phrase "proportionate fair-share mitigation" in their development of the model ordinance required in s. 163.3180(16)(a), F.S., as a result of the Act. That phrase appears to best represent the concepts embodied in the Act.

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Cross-references

The Act contains a number of cross-references that are inaccurate and should be corrected as outlined below.

- Correction: In s. 163.3177(13)(c)4, F.S., the cross-reference to “subsection (2)” should be “subsection (14)”.

Explanation: The section addresses the topics which a local government must discuss as part of the workshops and public meetings for the development of a community vision. Specifically, this reference is to the designation of an urban service boundary, which is referred to in subsection (14), and not subsection (2).

- Correction: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.3177(6), F.S., should be “163.31777, F.S.”

Explanation: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements, and should refer to the entire section itself, s. 163.31777, F.S.

- Correction: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32), F.S., should be “s. 163.3164(32), F.S.”

Explanation: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of “financially feasible” which is found at s. 163.3164(32), F.S.

- Correction: In s. 163.3184(17), F.S., the citation to s. 163.31773(13), F.S., should be “s. 163.3177(13) F.S.”

Explanation: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

- Correction: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) F.S., should be “s. 163.3180(9), F.S.”

Explanation: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9), F.S., relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), F.S., relates to long-term transportation and school concurrency management systems.

Funding Issues

The Act contains a number of appropriations and other funding matters that are inadvertent or otherwise need to be corrected, adjusted, or readdressed, as outlined below.

- Transportation Funding

- Non-recurring Strategic Intermodal System (SIS) Appropriation - The Act appropriates \$200 million for the 2005-2006 fiscal year to fund projects on the SIS. The intended funding level was \$175 million non-recurring to correspond with a one-time \$175 million transfer. The bill makes this correction.
- State Infrastructural Bank (SIB) non-recurring transfer – The bill deletes s. 339.55(10), F.S. The subsection was inadvertently inserted in the Act last year. There were no funds deposited into

the State Transportation Trust Fund pursuant to s. 201.15(1)(d), F.S., (the DOC Stamp recurring funding) for the SIB.

Public Schools Interlocal Agreement

The bill amends several sections of existing law to merge the requirements for the public schools interlocal agreement into s. 163.31777, F.S. This was undertaken in an effort to provide a single statutory source for these requirements. Specifically, requirements currently existing in ss. 163.3180(13)(g), 1013.33(2) and (3), F.S., are combined and revised into s. 163.31777, F.S.

Concurrency

Transportation Facilities: The bill provides that if the construction funding needed for transportation facilities is provided in the first 3 years of the DOT work program, then the “under-actual-construction” requirement of s. 163.3180(2)(c), F.S., is satisfied.

Impacts to the Strategic Intermodal System

Transportation Concurrency Exception Areas: The bill provides that DOT must publish and distribute, after publicly noticed workshops, policy guidelines containing criteria and options to assist local government in planning to assess and mitigate impacts of a proposed concurrency exception area as described in s. 163.3180(5)(f) and (7), F.S.

Required Adoption of a Proportionate Fair-Share Mitigation Methodology and Transportation Concurrency Management System

The bill provides if a local government fails to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, that local government would be subject to sanctions imposed by the Administration Commission. Section 163.3184(11)(a), F.S., provides that the Administration Commission may specify remedial actions which would bring the comprehensive plan or plan amendment into compliance and may direct state agencies not to provide funds to increase the capacity of roads, bridges, or water and sewer systems within the boundaries of the local government not in compliance. The commission order may also specify that the local government may not be eligible for grants administered under the following programs:

- The Florida Small Cities Community Development Block Grant Program, as authorized by ss. 290.0401-290.049, F.S.
- The Florida Recreation Development Assistance Program, as authorized by chapter 375, F.S.
- Revenue sharing pursuant to ss. 206.60, 210.20, and 218.61 and chapter 212, F.S., to the extent not pledged to pay back bonds.

DOT Comments on Proposed Transportation Concurrency Exception Areas

The Act provides that a local government proposing a transportation concurrency exception area must confer with DOT regarding impacts to, and mitigation of impacts to, SIS facilities. The bill provides that DOT must concur or withhold its concurrence with the mitigation of development impacts to facilities on the SIS within 60 days of the date of submission. If DOT fails to respond within the allotted time period, then DOT is deemed to have concurred.

C. SECTION DIRECTORY:

Section 1 - Amends s. 163.3164(32), F.S., correcting terminology.

Section 2 – Amends s. 163.3177(13)(c), F.S., correcting cross-reference.

Section 3 – Amends s. 163.31777, F.S., relating to public schools interlocal agreements.

Section 4 – Amends s. 163.3180, F.S., relating to concurrency.

Section 5 – Amends s. 163.3184(17), F.S., relating to adoption and amendment of comprehensive plans.

Section 6 – Amends s. 339.2819(4)(a), F.S., relating to the Transportation Regional Incentive Program.

Section 7 – Amends s. 339.55, F.S., relating to the state-funded infrastructure bank; and correcting an appropriations error.

Section 8 – Amends s. 380.06(24)(l), (m) and (n), F.S., relating to developments of regional impact; correcting terminology.

Section 9 – Amends s. 1013.33(2), (3), and (12), F.S., relating to the coordination of school planning with local governments.

Section 10 – Amends s. 1013.65(2)(a), F.S., relating to the Public Education Capital Outlay and Debt Service Trust Fund; removing an appropriation for the Classrooms for Kids Program.

Section 11 – Amends s. 27 of ch. 2005-290, L.O.F., relating to appropriations.

Section 12 - Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Counties that fail to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, would be subject to sanctions imposed by the Administration Commission.

2. Expenditures:

Indeterminate. While the bill strengthens certain timing requirements for local government planning related activities, the requirement to undertake those activities exists in current law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill both strengthens the timing requirements for certain local government actions and appropriates funding which provides the potential for some local government benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

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.

2. Other:

The bill does not appear to raise any constitutional issues.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted one amendment. The amendment removed the deletion of s. 163.31777(3)(b) and (c), F.S. from the bill.

At the April 17, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 7167 with four amendments. The first amendment was a technical amendment. The second amendment removed the requirement from the bill that public schools interlocal agreements for school concurrency service areas must establish a process and schedule for the mandatory incorporation of school concurrency service areas, and the criteria and standards for the establishment of those service areas into the local comprehensive plan. The third amendment removed the appropriations from the bill, and the fourth amendment provided if a local government fails to adopt a methodology for assessing proportionate fair-share mitigation by December 1, 2006, that local government would be subject to sanctions imposed by the Administration Commission.

On April 21, 2006, the State Infrastructure Council adopted one amendment that changed the time period to 60 days (from 30 days) during which the DOT has to concur or withhold its concurrence with the mitigation of development impacts to SIS facilities.