

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7229 PCB GM 06-03 Growth Management

**SPONSOR(S):** Growth Management Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	9 Y, 0 N	Strickland	Grayson
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

### SUMMARY ANALYSIS

PCB GM-06-03 is a bill relating to the planning and funding of infrastructure. The PCB:

- Provides that a change to an approved development of regional impact will not require additional local review if the change is allowed by applicable local ordinances without further review.
- Establishes a trip fee, requires the Department of Transportation (DOT) to develop a model ordinance, and encourages local governments to view the trip fee as an alternative to adopting impact fees for transportation facilities.
- Provides that the Department of Community Affairs shall not use the lack of availability of water as a basis for finding a comprehensive plan amendment not in compliance. This is contingent upon the local government transmitting, along with its adopted plan amendment, a letter from the applicable water supplier that provides that adequate water supplies will be available.
- Provides that should the water provider have a property interest in the land that is subject to the amendment, the letter must be provided by the applicable water management district.
- Provides that a change to an approved development of regional impact will not require additional local review if the change is allowed by applicable local ordinances without further review.

The bill includes a \$25 million appropriation to the Conservation and Recreation Lands Program Trust Fund from the General Revenue Funds to fund conservation easements and agreements pursuant to s. 570.71, F.S.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

*Provide limited government* – The bill has the potential to either increase or decrease government depending upon whether or not a trip fee is used to replace impact fees.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Background:**

##### Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (CS/CS/CS SB 360), 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. This bill concerns the addition of new issues relating to CS/CS/CS SB 360 (2005).

##### Transportation Concurrency Exception Areas

Concurrency is the concept that the infrastructure necessary to support new development or redevelopment be in place concurrent with that development. Last year's legislation, CS/CS/CS SB 360, results in stricter concurrency related to transportation, schools and water infrastructure.

Existing law provides some opportunity for local governments to designate transportation concurrency exception areas (TCEA) under specified circumstances. These TCEAs recognize that in some areas state policy and local decision making would favor the placement of development or redevelopment to prevent the "sprawl" of development. Often in these areas, transportation facility capacity (or an overcrowding of an existing transportation facility) may already be an issue. Within a TCEA, the local government plans to address those issues by future infrastructure development or by the use of alternative means to transport people and goods, such as the use of buses and trains.

##### Adoption of Comprehensive Plan Amendments

Existing law provides a process for the amendment of local comprehensive plans. As a result of CS/CS/CS SB 360 (2005), water concurrency now requires that prior to approval of a building permit or its functional equivalent, the local government must consult with the applicable water supplier to determine whether adequate water supplies to serve new development will be available no later than the anticipated date of issuance of the local government's certificate of occupancy, or its functional equivalent.

##### Developments of Regional Impact

Development of regional impact is defined to mean "any development, which because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." [See: s. 380.06(1), F.S.] Under existing law, once a DRI is approved, it may begin and continue to be developed pursuant to the local government "development order" authorizing the activities. If at some later time, the development needs to change for any number of reasons, certain changes may be undertaken so long as they do not trigger the "substantial deviation" thresholds which would require additional DRI review.

##### Conservation Easements and Agreements

Section 570.71, F.S., provides the Department of Agriculture and Consumer Services (ACS) with the authority to act on behalf of the Board of Trustees of the Internal Improvement Trust Fund<sup>1</sup> to allocate

<sup>1</sup> Chapter 253, F.S., is entitled "State Lands." Section 253.001, F.S., establishes that pursuant to the provisions of s. 7, Art. II, and s. 11, Art. X of the State Constitution, all lands held in the name of the Board of Trustees of the Internal Improvement Trust Fund are held in trust for the use and benefit of the people of the state of Florida.

moneys to acquire perpetual, less-than-fee interest in land, to enter into agricultural protection agreements, and to enter into resource conservation agreements for specified public purposes. By virtue of the upturn in the real estate market over the last several years, rural lands are being converted to ranchette and other residential uses at the expense of these rural and agricultural lands. The authority provided to ACS in s. 570.71, F.S., may be utilized to allow landowners who wish to continue the rural and agricultural uses of these lands the opportunity to do so through the public purchase of conservation easements or through entering agreements. That authority appears to have been unfunded.

**Effect of Proposed Change:**

**Transportation Concurrency Exceptions Areas**

The bill provides that traffic generated by a development within a transportation concurrency exception area shall not be considered in traffic concurrency calculations.

The bill provides for the establishment of a "trip fee." Further, the bill requires the Department of Transportation to develop a model ordinance, by December 1, 2006, containing a methodology for local governments to use in implementing the "trip fee" concept. The bill also encourages local governments to view the "trip fee" as an alternative to local government adopting impact fees for transportation facilities.

**Adoption of Comprehensive Plan Amendments**

The bill provides that the Department of Community Affairs must not use the lack of availability of water for finding a comprehensive plan amendment not-in-compliance of an adopted comprehensive plan amendment under the following circumstances:

- A letter is provided by the applicable water supplier, along with the adopted comprehensive plan amendment, that provides that adequate water supplies will be available, or
- In the case that the water supplier has a property interest in the subject property, a letter is provided and submitted by the applicable water management district setting forth that adequate water will be available.

**Developments of Regional Impact**

The bill provides that a change to an approved development of regional impact will not require additional local review if the change is allowed by applicable local ordinances without further review.

**Conservation Easements and Agreements**

The bill appropriates \$25 million in the General Revenue Funds for the Conservation and Recreation Lands Program Trust Fund with the Department of Agriculture and Consumer Services, for the purposes of conservation easements and agreements pursuant to s. 570.71, F.S.

**C. SECTION DIRECTORY:**

**Section 1:** Amends s. 163.3180, F.S., relating to concurrency.

**Section 2:** Amends s. 163.3184, F.S., relating to the adoption of comprehensive plans and amendments.

**Section 3:** Amends s. 380.06, F.S., relating to developments of regional impact.

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The Governor and the Cabinet sit as the Board of Trustees of the Internal Improvement Trust Fund. Pursuant to s. 253.03, F.S., the Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies, departments, boards or commissions, excluding certain properties. The Division of State Lands of the Department of Environmental Protection performs staff duties and functions related to the acquisition, administration and disposition of those lands in which title is vested in the Board. See, s. 253.002(1), F.S

Section 4: Provides a \$25 million appropriation to the Conservation and Recreation Lands Program Trust Fund from the General Revenue Funds to fund conservation easements and agreements pursuant to s. 570.71, F.S..

Section 5: Provides an effective date of July 1, 2006.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill appropriates \$25 million dollars from General Revenue Funds to the Conservation and Recreation Lands Program Trust Fund.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There does not appear to be a direct economic impact on the private sector.

### 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:

Not applicable.

### B. RULE-MAKING AUTHORITY:

Not Applicable.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Growth Management Committee adopted three amendments to the bill on March 28, 2006. The amendments did the following:

- Developments of Regional Impact – Provides that a change to an approved DRI will not require additional local review if the change is allowed by applicable local ordinances without further review.
- Transportation concurrency – Provides that traffic generated by a development within a transportation concurrency exception area shall not be considered in the traffic concurrency calculations.
- “Trip fee” – Establishes a “trip fee;” requires DOT to develop a model ordinance, by December 1, 2006, containing a methodology for local governments to use in implementing the “trip fee” concept; and encourages local governments to view the “trip fee” as an alternative to the local government adopting impact fees for transportation facilities.