HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7203 PCB EEIC 07-11 An act relating to growth management
SPONSOR(S): Economic Expansion & Infrastructure Council; Cannon & Kravitz
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Economic Expansion & Infrastructure Council	14 Y, 0 N	Peterson	Tinker
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill makes several revisions to part II of Chapter 163, F.S., relating to growth management. Certain provisions are intended to address implementation issues related to CS/CS/CS/SB 360 enacted in 2005.

The bill makes changes to financial feasibility of comprehensive plans and proportionate share options relating to transportation and school concurrency. It allows for the "pipelining" of improvements and allows that adopted levels of service can be met and achieved over time based on the adopted capital improvement schedule. The bill extends the deadline for local governments to submit their annual capital improvement elements that meet the financial feasibility requirements from December 1, 2007 to December 1, 2008.

The bill clarifies that proportionate share mitigation is limited to the impacts a development has on a transportation system and does not include reducing or eliminating backlogs. The bill expands the areas eligible for transportation concurrency exception areas to include certain urban service areas that meet the requirements of the law.

The bill creates the "Transportation Concurrency Backlog Act" as a tool for local governments to address facilities that do not meet adopted levels of service and to allow for the satisfaction of all future concurrency requirements of landowners within the jurisdiction.

The bill recognizes the varying needs of Florida's local governments and streamlines the state growth management oversight in specific areas. Specifically, the bill:

- Creates a pilot program providing a review process for densely developed areas;
- Provides exemptions for Pinellas and Broward counties, and their cities; and the cities of Jacksonville, Miami, Tampa, Hialeah, and Tallahassee from compliance reviews by the state land planning agency and provides a process for adoption and review of comprehensive plan amendments of such local governments; and
- Requires a report on the pilot by the Legislative Committee on Intergovernmental Relations.

The bill makes several other changes in regards to growth management issues that are addressed in the analysis relating to developments of regional impact, port master plan amendments, duration of development agreements, and allowable cumulative acres for small scale amendment.

The bill takes effect on July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government –

- The bill streamlines the state growth management oversight in specific areas. Specifically, a pilot program is created to provide a review process for densely developed areas and provides exemptions for Pinellas and Broward counties, and their cities, and the cities of Jacksonville, Miami, Tampa, Hialeah, and Tallahassee from compliance reviews by the state land planning agency.
- The bill requires a report by the Legislative Committee on Intergovernmental Relations.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Part II of Chapter 163 governs local governments in comprehensive planning. Florida's current growth management process was established in 1985 and has been amended throughout the years since. In 2005, the Legislature enacted CS/CS/CS/SB 360 that made numerous changes to the laws governing growth management in Florida, primarily related to the provision of adequate infrastructure.

Capital Improvements Element

A local government's comprehensive plan is required to be financially feasible and the capital improvements element in a local comprehensive plan must include a schedule of improvements that ensures the adopted level-of-service standards are achieved and maintained. Each local government is required to submit an annual update of its capital improvements element to demonstrate it is maintaining a financially feasible 5-year schedule of capital improvements. The required capital improvements element update or amendment must be adopted and transmitted no later than December 1, 2007. DCA is required to notify the Administration Commission (the Governor and Cabinet) if the local government does not adopt the required update or the update is found not in compliance. The Administration Commission is authorized to sanction the local government.

Transportation Concurrency

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

Strategic Intermodal System

The Florida Department of Transportation (FDOT) is responsible for establishing level-of-service standards on the highway component of Strategic Intermodal System (SIS) and for developing guidelines to be used by local governments on other roads. 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.

In 2005, CS/CS/CS/SB 360 revised transportation concurrency requirements. Specifically, it requires transportation facilities to be in place or under actual construction within 3 years from the local government's approval of a building permit or its functional equivalent that results in traffic generation. Each local government was required to adopt a methodology for assessing proportionate fair-share mitigation options by December 1, 2006.

Proportionate Fair-Share Mitigation
CS/CS/CS/SB 360 also provided a method for mitigating the impacts of development on transportation facilities through the cooperative efforts of the public and private sectors. This method, called proportionate fair-share mitigation, can be used by a local government to determine a developer's fair-share of costs to meet concurrency. The developer's fair-share may be combined with public funds to construct future improvements; however, the improvements must be part of a plan or program adopted by the local government or FDOT. If an improvement is not part of the local government's plan or program, the developer may still enter into a binding agreement at the local government's option provided the improvement satisfies part II of ch. 163, F.S., and:

- the proposed improvement satisfies the significant benefit test; or
- the local government plans for additional contributions or payments from developers to fully mitigate transportation impacts in the area within 10 years.

Proportionate Share Mitigation
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. Multiuse developments contain a mix of land uses and multiuse DRIs meeting certain criteria are eligible to satisfy transportation concurrency requirements under s. 163.3180(12), F.S. The proportionate share option under subsection (12) has been used to allow the mitigation collected from certain multiuse DRIs to be "pipelined" or used to make a single improvement that mitigates the impact of the development because this may be the best option where there are insufficient funds to improve all of the impacted roadways.

Effect of Proposed Changes

Definitions
The bill amends s. 163.3164, F.S., to include community redevelopment areas created under part III of ch. 163, F.S., in the definition of "urban redevelopment."

The term "financial feasibility" is amended to delete an exemption to the requirement that adopted level-of-service standards be achieved and maintained. The exemption states that it applies to projects using the proportionate share process under subsections (12) and (16) of s. 163.3164, F.S.; however, its applicability has been the subject of debate. The exemption is replaced with language that provides a local government's comprehensive plan is financially feasible for purposes of transportation and school facilities if level-of-service standards are achieved and maintained by the end of the capital improvement schedule planning period. In other words, a comprehensive plan will still satisfy the financial feasibility requirement for transportation facilities even if level-of-service standards are not met in a particular year as long as the standards are met by the end of the planning period used in the capital improvement schedule.

Financial Feasibility
The bill amends s. 163.3177, F.S., to clarify that the requirement for a local comprehensive plan to be "financially feasible" applies to the appropriate planning period. The appropriate planning period shall be a

minimum of five years under the capital improvements element for transportation or school concurrency, but may also be a long-term concurrency system that covers 10 or 15 years.

Section 163.3177(3)(b)1., F.S., requires each local government to update its capital improvements schedule to demonstrate the schedule is financially feasible. Amendments to implement this provision must be adopted and transmitted by December 1, 2007. This bill extends that date to December 1, 2008.

Section 163.3177(3)(b)1., F.S., also prohibits a local government who fails to adopt and transmit the annual update of its capital improvements schedule to address financial feasibility from adopting any future land use map amendments until the annual update has been adopted and transmitted to DCA. This prohibition is scheduled to take effect December 1, 2007, but the bill extends that date to December 1, 2008. This section of the bill also deletes a provision requiring DCA to notify the Administration Commission if a local government's annual update to its schedule of capital improvements is not in compliance. Under this bill, the penalty applies only if a local government does not adopt the required annual update.

This bill deems a local comprehensive plan to be financially feasible if a future land use map amendment is supported, at the discretion of the local government, by a DRI development order condition or a binding agreement that addresses proportionate share payments consistent with the requirements of:

- s. 163.3180(12), F.S., relating to transportation concurrency requirements for DRIs; or
- s. 163.3180(16)(f), F.S., relating to transportation improvements that provide a significant benefit, if the area covered by the plan amendment is designated in the comprehensive plan as an urban infill, urban redevelopment, downtown revitalization, urban infill and redevelopment, or an urban service area.

The binding agreement must be based on the maximum amount of development allowed under the future land use map amendment.

Transportation Concurrency

The bill amends s. 163.3180(5), F.S., to allow a local government to grant an exception from transportation concurrency requirements for projects within an urban service area specifically designated as a TCEA that includes lands:

- appropriate for compact, contiguous urban development;
- needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan for the 10-year planning timeframe; and
- served or planned to be served with public facilities and services as provided for in the capital improvements element.

The bill requires local governments with a TCEA to adopt long-term strategies to support and fund mobility in the designated area. The role of FDOT with respect to TCEAs is revised so that DCA and FDOT will be consulted by the local government regarding the impact of a proposed exception area on the adopted level-of-service standards for SIS facilities and certain other roadway facilities. Also, the local government will consult with DCA and FDOT to develop a plan to mitigate any impacts to SIS.

Subsection (12) of s. 163.3180, F.S., is amended so that it applies to all DRIs, not just multi-use DRIs. The bill deletes a criterion requiring a specified number of residential units for a multiuse DRI to use the provisions of subsection (12). It broadens the type of improvements that can be funded with a proportionate-share contribution by referring to "mobility" improvements. It also specifically states that proportionate-share mitigation under subsection (12) is limited to ensure that a DRI mitigates its impact upon the transportation system, but is not responsible for reducing or eliminating any backlogs on the system.

The bill amends subsection (16) of s. 163.3180, F.S., to provide that proportionate fair-share mitigation to satisfy transportation concurrency may be "pipelined" or used for multiple transportation improvements reasonably related to the demands created by the development and these improvements may address one or more modes of travel. The bill expressly limits proportionate fair-share mitigation to those impacts that a development has on the transportation system and does not allow such mitigation to be collected for the purpose of reducing or eliminating backlogs.

In addition, the bill expands the list of public transit facilities for which the concurrency requirement is not applicable to include airport passenger terminals and concourses, air cargo facilities, and hangers for the maintenance and/or storage of aircraft.

Transportation Concurrency Backlog Act
The bill creates the "Transportation Concurrency Backlog Act." A county or municipality may create a transportation concurrency backlog authority if it has an identified transportation concurrency backlog. Acting as the authority within its jurisdiction, the governing board of each county or municipality is to adopt and implement a plan to eliminate all identified transportation concurrency backlogs within its jurisdiction.

Powers - The bill grants the following powers to a transportation concurrency backlog authority:

- To make and execute contracts and other instruments necessary or convenient to the exercise of its powers;
- To undertake and carry out transportation concurrency backlog projects for all streets, roads, and related public facilities that have a backlog within the authority's jurisdiction;
- To invest any transportation concurrency backlog funds held in reserves, sinking funds, or funds not required for immediate disbursement in property or securities in which savings banks may legally invest funds subject to the control of the authority and to redeem bonds issued at the redemption price established therein, or to purchase such bonds at less than redemption price. All such bonds redeemed or purchased are to be cancelled.
- To borrow money, apply for and accept advances, loans, grants, contributions, and any other forms of financial assistance from the federal government or the state, county, or any other public body or from any sources, public or private to give such security as may be required, to enter into and carry out contracts or agreements, and to include in any contracts for financial assistance with the federal government for or with respect to a transportation concurrency backlog project and related activities the conditions imposed pursuant to federal laws the authority considers reasonable and appropriate and are not inconsistent with the purposes of the Act.
- To make or have made all surveys and plans necessary to carry out the purposes of the Act, to contract with any persons, public or private, in making and carryout out such plans, and to adopt, approve, modify, or amend backlog plans.
- To appropriate such funds and much expenditures as necessary to carry out the purposes of the Act and to zone or rezone any part of the backlog area to make exceptions from regulations and to enter into agreements with other public bodies which agreements may extend over any period.

Transportation concurrency backlog plan - The bill provides for the adoption of a transportation concurrency backlog plan within six months after the authority's creation. The plan is to:

- Identify all transportation links that have been designated as failing or failed links and require the expenditure of moneys to upgrade, modify, or mitigate condition of the links.
- Include a priority listing of all transportation links that have been designated as failed or failing links and don't satisfy concurrency requirements.
- Establish a schedule for financing and construction of backlog projects that will eliminate the backlog within 10 years after the plan adoption.

The adopted plan is not subject to review or approval by the DCA.

Transportation concurrency backlog trust fund - The transportation concurrency backlog plan is to utilize funds as follows:

- Upon its creation, the authority is directed to establish and administer a transportation concurrency backlog trust fund.
- Beginning in the first fiscal year after the authority's creation, each trust fund is to be funded by the proceeds of an ad valorem tax increment collected within each transportation concurrency backlog area to be determined annually and to be the amount equal to 25 percent of the difference between:
    - The amount of ad valorem tax levied each year by each taxing authority, exclusive of any amount from a debt service millage, on taxable real property contained within the authority's jurisdiction and within the backlog area;
    - The amount of ad valorem taxes which would have been produced by a rate upon which the tax is levied each year by or for each taxing authority exclusive of any debt service millage upon the

total of the assessed value of the taxable real property within the backlog area as shown on the most recent assessment roll used in connection with the taxation of such property by each taxing authority.

Exemptions - The bill provides exemption for the following public bodies or taxing authorities:

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district for which the sole available source of revenues the district has the authority to levy at the time an ordinance is adopted under this section are ad valorem taxes. Revenues or aid that may be dispensed or appropriated to a district as defined in s. 388.011 at the discretion of an entity other than such district are not deemed available.
- A library district;
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069.
- An authority may also exempt a special district that levies ad valorem taxes within the transportation concurrency backlog area pursuant to s. 163.387(2)d.

Transportation Concurrency Satisfaction - All transportation concurrency backlogs within the jurisdiction are deemed to be financed and financially feasible for purposes of calculating transportation concurrency upon adoption of a transportation concurrency backlog plan by an authority. A landowner may proceed with development of a specific parcel of land if all other specified provisions have been satisfied and the landowner may not be assessed any proportionate share or impact fees for backlog.

Dissolution - Upon completion of all backlog projects, an authority is dissolved and its assets and liabilities are transferred to the county or municipality within which the authority is located. Remaining assets of the authority must be used for implementation of transportation projects within the authority's jurisdiction.

School Concurrency

The bill amends subsection (13) of s. 163.3180, F.S., to provide upon agreement that the school board will include the facility in its next regularly scheduled update of the work program, the developer may accelerate the provision of one or more schools that serve the development's capacity needs.

In addition, the proportionate-fair-share mitigation is limited to ensure that a development meeting certain requirements mitigates its impact on the school system, but is not responsible for the additional cost of eliminating backlogs.

Small Scale Development Amendments

The bill amends s. 163.3187, F.S. to modify maximum acreage allowances related to certain small scale amendments. Specifically, a small scale amendment may be adopted if the proposed amendment involves a use of ten acres or fewer and the cumulative effect of the acreage for all small scale development amendments adopted by the local government shall not exceed a maximum of 720 acres in a county established pursuant to s. 9, Art. VIII of the State Constitution (the consolidated city of Jacksonville), but such amendments may be applied to no more than 120 acres annually to property outside the specifically designated areas for urban infill, urban redevelopment, downtown revitalization, transportation concurrency exception areas, or regional activity centers and urban central business districts.

Port Master Plan

The bill amends s. 163.3191, F.S., to provide that a specified prohibition on plan amendments does not apply to a proposed plan amendment adopted by a local government in order to integrate a port master plan with the coastal management plan element of the local comprehensive plan, if the port master plan or proposed plan amendment does not cause or contribute to the local government's failure to comply with the evaluation and appraisal report requirements.

Developments of Regional Impact

The bill amends s. 380.06, F.S., to provide a three-year extension for all DRI phase and buildout dates for projects under construction as of July 1, 2007, regardless of any prior extensions. This extension is not a

substantial deviation, not subject to further DRI review, and not to be considered when determining whether any subsequent extension is a substantial deviation.

Development Agreement
The bill amends s. 163.3229, F.S., to provide an extension of a time limitation on the duration of development agreements from ten to 20 years.

Pilot Program Providing a Review Process for Densely Developed Areas

Florida and its communities have been implementing growth management within today's structure of local comprehensive planning with regional and state review for more than 20 years. This bill recognizes the evolution of the state and the level of sophistication of local governments in the past 20 years and the wide range of conditions, abilities and needs. The bill proposes to streamline state review and authorize local jurisdiction in certain communities and allow state review to focus on areas of the state where patterns of development are still being established.

Legislative findings
The bill provides legislative findings that the state role in overseeing growth management must reflect the varied needs of Florida's local governments. It further finds that:

- State oversight should focus on areas where the oversight provides the greatest value to the state and local area;
- State efforts should include technical assistance and advice to improve the state's and local governments' ability to respond to growth related issues;
- The state should provide oversight to ensure compliance with comprehensive planning issues in areas where the patterns of development are being established and the state's role should vary based on the unique conditions and capabilities of the local governments.

The pilot program recognizes that some areas of the state should be exempt from unnecessary state oversight based on established patterns of development.

Exempt local governments
As examples of highly developed counties, Pinellas and Broward counties; and the cities of Jacksonville, Miami, Tampa, Hialeah, and Tallahassee, as examples of highly populated cities, with systems in place to allow for coordination of planning activities with local oversight are exempt from compliance reviews by the state land planning agency. The cities in Pinellas and Broward may opt out of the pilot by supermajority vote of their governing board.

Process for adoption of comprehensive plan amendments for exempt counties and municipalities
The bill provides that the process for plan amendments proposed and adopted under this section is substantially the same as current law and will continue to be reviewed by state and regional agencies. However, they will be exempt from the state land planning agency's issuance of an objections, recommendations and comments report and Notice of Intent on compliance. Small scale amendments, plan amendments that propose a rural land stewardship area, update a comprehensive plan based on an evaluation and appraisal report, or are the initial implementation of new statutory requirements that require specific comprehensive plan amendments shall follow the process provided under existing law. The details of the process established in this pilot are provided below:

Public hearings
The public hearing requirements for pilot local governments are substantially the same as current law.

The procedure for transmittal and adoption of a complete comprehensive plan amendment is to be by affirmative vote of at least a majority of the present governing body members and the adoption of an amendment is to be by ordinance. The bill provides that the notice requirements in chapters 125 and 166, F.S., are superseded for the purposes of transmitting or adopting specified amendments.

The local governing body is to hold at least two advertised public hearings as follows:

- The first is to be held at the transmittal stage on a weekday at least seven days after the day the first advertisement is published;
- The second is to be held at the adoption stage on a weekday at least five days after the second advertisement is published.

The local government is to provide a sign-in form for those in attendance and shall add required information to the sign-in form for any person who submits written comments concerning the proposed amendment during the period between the commencement of the transmittal hearing and the end of the adoption hearing.

The required advertisements are to be in a format specified in current law if the proposed comprehensive plan amendment changes the actual list of permitted, conditional, or prohibited uses within a future land use category or changes the actual future land use map designation of a parcel or parcels of land.

Local government transmittal of proposed plan amendment
Transmittal requirements for pilot local governments are substantially the same as current law.

Immediately following a public hearing, each local governing body is to transmit the complete proposed amendment to the:

- State land planning agency,
- Appropriate regional planning council and water management district,
- Department of Environmental Protection,
- Department of State, and
- Department of Transportation.
- Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of municipal plans.

If the plan amendment includes or relates to the public schools facilities element, a copy should also be submitted to the Office of Educational Facilities of the Commissioner of Education for review and comment.

The local governing body is also to submit a copy to any other unit of local government or government agency in the state that has filed a written request.

Local governing bodies are to consolidate proposed plan amendments into a single submission for each of the two plan amendment adoption dates during the calendar year pursuant to current law.

Intergovernmental review
The review period has been significantly shortened.

The above specified agencies may provide comments to the local government within 30 days after receipt of the proposed plan amendment. Agencies will not have to send their comments to the state land planning agency and an objection, recommendations and comment report will not be compiled by the DCA.

Regional, county, and municipal review
The regional planning council and county reviews are substantially the same as current law.

The regional planning council (RPC) review is to be limited to effects on regional resources or facilities identified in the strategic regional policy plan and extra-jurisdictional impacts which would be inconsistent with the comprehensive plan of the affected local governments. An RPC should not review and comment on a proposed amendment it prepared itself.

The review of the county land planning agency is to be primarily in the context of the relationship and effect of the proposed amendment on any county comprehensive plan element, and any municipal review will be primarily in the context of the relationship and effect on the municipal plan.

Local government review of comments; adoption of plan amendments and transmittal

The local government review of comments and adoption of plan amendments and transmittal is substantially the same as current law, except that the DCA does not issue a notice of intent to find a plan amendment in compliance or not in compliance.

The local government is to review the submitted written comments, of which any comments, recommendations, and any reply to the same are public documents, admissible in any proceeding in which the comprehensive plan amendment may be at issue.

The adoption of, or determination not to adopt, the proposed plan amendment is to be made in the course of the previously outlined public hearing. The local government is to transmit the complete adopted comprehensive plan amendment, including the names and addresses of persons compiled, to the state land planning agency ten working days after adoption. The local governing body is to also transmit a copy of the adopted plan amendment to the regional planning agency and to any other governmental unit in the state that has filed a written request.

If the adopted plan amendment is unchanged from the transmitted proposed amendment, the local government may state in the transmittal letter that it is unchanged.

Challenges to the compliance of an adopted plan amendment
In essence, the challenge process follows that of a small scale amendment challenge, with the exception that a challenge can be brought by DCA, DEP, or DOT.

Within 30 days of adoption any affected person, the state land planning agency, the Department of Environmental Protection, or the Department of Transportation may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, F.S., to request a hearing to challenge the compliance of an amendment with this act, and shall serve a copy of the petition on the local government. In any initiated proceeding, the state land planning agency may intervene. State agency challenges are limited to significant adverse impacts to regional or statewide issues or resources within the agency's jurisdiction as it relates to consistency with this act's requirements and are limited to issues related to comments provided during the transmittal review.

An administrative law judge shall hold a hearing between 30 and 60 days following the petition filing and his or her assignment. The parties to a hearing shall be the petitioner, the local government, and any intervenor. In the proceeding, the local government's determination that the amendment is in compliance is presumed to be correct. This determination is sustained unless proven otherwise by preponderance of the evidence.

If the administrative law judge recommends the amendment be found not in compliance, he or she will submit the recommended order to the Administration Commission for final agency action. If it is found in compliance, the recommended order is submitted to the state land planning agency for final agency action.

If the state land planning agency determines the plan amendment is not in compliance, within 30 days following its receipt the agency shall submit the recommended order to the Administration Commission for final action. If it is found in compliance, the agency shall enter a final order within 30 days following its receipt of the recommended order.

Amendments are not effective until 31 days after adoption, and if challenged within 30 days, amendments are not effective until the state land planning agency or the Administration Commission issues a final order determining the adopted amendment is in compliance.

Evaluation and Appraisal Report Requirements
Provisions of s. 163.3187(6), F.S., are not superseded by this section. This subsection prohibits a local government that fails to meet the schedule for its evaluation and appraisal report and associated amendments submittal from adopting other amendments until this provision is met.

Technical Assistance

A local government is authorized to seek technical assistance from the state land planning agency on planning issues relating to their comprehensive plan regardless of its status in this program.

Reports
The Legislative Committee on Intergovernmental Relations is to prepare a report evaluating the pilot program, to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by November 30, 2010. The committee is to solicit comments from local governments, citizens and review agencies in the process of their evaluation.
The report is to include:

- a discussion of local, regional and state issues of significance that have occurred within the designated areas and how the designation has affected such issues.
- if applicable, extra-jurisdictional conflicts and resolutions, development patterns and their effects on infrastructure capacity and environmental and resource issues, as it applies to the pilot.
- benefits and concerns relating to the exemption from state review, as appropriate.

The act takes effect July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3164, F.S.; to redefine the terms “urban redevelopment: and “financial feasibility.

Section 2: Amends s. 163.3177, F.S.; to provide for application of requirements for financial feasibility with respect to the elements of a comprehensive plan; delay the deadline for amendments conforming public facilities with the capital improvements element; and specify circumstances under which transportation facilities shall be deemed to be financially feasible and to have achieved level-of-service standards.

Section 3: Amends s. 163.3180, F.S.; to expand the list of public transit facilities for which the concurrency requirement is not applicable; provide an additional exemption from concurrency requirements for an urban service area under specified circumstances; require that a local government consult with the state land planning agency regarding the designation of a concurrency exception area; delete obsolete dates; broaden the proportionate-share-contribution language related to developments of regional impact; and provide requirements relating to concurrency and proportionate-fair-share mitigation with respect to transportation improvements.

Section 4: Creates s. 163.3182, F.S.; to create the Transportation Concurrency Backlog Act; provide definitions; authorizing counties and municipalities to create a transportation concurrency backlog authority under certain circumstances; providing powers and responsibilities of such authorities; requiring adoption of a transportation concurrency backlog plan and specifying plan requirements; requiring such authorities to establish a trust fund for certain purposes; providing for administration of the fund; providing for funding of such trust fund by an ad valorem tax increment; exempting certain districts and taxing authorities from transportation concurrency requirements; providing criteria for satisfying transportation concurrency requirements; and providing for dissolution of transportation concurrency backlog authorities.

Section 5: Amends s. 163.3187, F.S.; to modify maximum acreage allowances related to related to certain small scale amendments.

Section 6: Amends s. 163.3191, F.S.; to provide exception from a certain prohibition for a proposed plan amendment adopted in order to integrate a port master plan with the coastal management plan element under certain conditions.

Section 7: Amends s. 163.3229, F.S.; to extend a time limitation on the duration of development agreements.

Section 8: Creates s. 163.32465, F.S.; to create a pilot program providing a review process for densely developed areas; provide legislative findings; provide exemptions for compliance reviews by the state land planning agency; provide a process for adoption of comprehensive plan amendments for exempt counties and municipalities; provide for public hearings; provide for local government transmittal of proposed plan amendment; provide for intergovernmental, regional, county, and municipal review; provide a process for local government review of comments and adoption of plan amendments and transmittal; and require a report by the Legislative Committee on Intergovernmental Relations.

Section 9: Amends s. 380.06, F.S.; to extend phase and buildout dates for certain development-of-regional impact projects.

Section 10: Provides the act shall take effect July 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would have a positive fiscal impact on the private sector by clarifying provisions for proportionate share mitigation and concurrency requirements related to needed infrastructure which leads to increased economic development. The bill clarifies that development that utilizes proportionate share provisions is not responsible for backlog costs. In addition, the bill allows developers and school boards to agree to accelerate the provision of schools that serve the development's capacity needs.

The bill provides that a local comprehensive plan is financially feasible for purposes of transportation and school concurrency if the adopted level-of-service standards are achieved and maintained by the end of the appropriate planning period.

The bill would have a positive impact on the local and state government and the private sector by streamlining and expediting the review and challenge timeframes.

D. FISCAL COMMENTS:

The bill creates the "Transportation Concurrency Backlog Act." A county or municipality may create a transportation concurrency backlog authority if it has an identified transportation concurrency backlog. Acting as the authority within its jurisdiction, the governing board of each county or municipality is to adopt

and implement a plan to eliminate all identified transportation concurrency backlogs within its jurisdiction utilizing outlined funding mechanisms.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Economic Expansion and Infrastructure Council considered PCB 07-11 on April 20, 2007, and adopted the following three amendments:

- Creation of the “Transportation Concurrency Backlog Act;"
- Provision for the duration of a development agreement to not exceed 20 years; and
- Provision for a three year extension for DRI buildout and phases due to real estate downturns.

The PCB was reported favorably as a council substitute.