The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL:	CS/SB 474
INTRODUCER:	Community Affairs Committee and Senator Garcia
SUBJECT:	Growth Management
DATE:	April 9, 2008 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	**Favorable/CS**
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

The committee substitute (CS) makes a number of revisions to the Growth Management Act, including enhanced participation by citizens in the plan amendment process, limitations on the frequency of plan amendments, incentives for the development of additional affordable housing units, designation of certain urban areas as transportation concurrency exception areas, and the creation of a process for studying and developing a mobility fee as a more effective means to mitigate traffic impacts.

Specifically, the CS:

- Prohibits members of the governing body of a local government from also serving on a local planning agency except in a municipality with a population of 5,000 or fewer;
- Extends the deadline for submitting a financially feasible 5-year schedule of capital improvements and the penalty for failure to adopt and transmit such schedule until December 1, 2009;
- Requires a local comprehensive plan to be consistent with a school district's facilities plan approved under s. 1013.35, F.S.;
- Encourages counties to adopt a rural sub-element as part of the future land use plan;

- Prohibits local governments from imposing design standards, site plan standards, or other conditions on a public school facility that are inconsistent with s. 1013.35, F.S., or with maintaining a balanced, financially feasible school district facilities work plan;
- Authorizes the Department of Community Affairs (DCA or state land planning agency) to amend its administrative rules to establish different minimum planning criteria for local governments based on population projections, amount of undeveloped land, and the services provided by a local government;
- Extends the deadline for local governments to adopt a public schools facilities element and the required updates to the interlocal agreement until December 1, 2009.
- Revises provisions related to accessory dwelling units;
- Revises applicable criteria for a plan amendment that uses an alternative method for hazard mitigation instead of satisfying the state coastal high-hazard provisions under ch. 9J-5, Florida Administrative Code;
- Extends the deadline for local governments to incorporate a revised definition of "coastal high-hazard area" in their future land use map and coastal management element;
- Designates certain urban areas identified for urban infill in the comprehensive plan as transportation concurrency exception areas;
- Removes the requirement that a local government submit a summary of its de minimus records to show it has not exceeded the 110-percent threshold for transportation impacts;
- Increases the requirement that 110 percent of the actual transportation impact caused by previously existing development be reserved for redevelopment to 150 percent;
- Defines "backlogged transportation facility" and provides that a developer may not be required to pay proportionate share mitigation that is more extensive because it is located on a backlogged transportation facility.
- Requires school districts that include relocatables in their inventory to also include them in the calculation of school capacity when determining whether levels of service have been achieved;
- Requires local governments to include a public school of each type in each concurrency service area;
- Requires the capacity of a school serving a contiguous area to be at 100-percent capacity for the type of school based on the adopted level-of-service standard.
- Provides that development is not responsible for backlog when mitigating its impacts on public school facilities and is not required to address class size reduction;
- Requires charter schools meeting certain requirements to be an option for proportionate share mitigation to satisfy school concurrency;
- Requires consistency between the methodology used to calculate student generation rates and the cost per student station for impact fees and an adopted school concurrency ordinance;
- Prescribes the authority of local governments to deny development based on school concurrency.
- Allows proportionate fair-share mitigation to be calculated using a vehicle and people miles traveled methodology or an alternative methodology in a local comprehensive plan;
- Provides that, if a developer pays mitigation for a phase or stage of a development, the impacts are fully mitigated for purposes of a subsequent transportation analysis for another phase or stage of development (for a development of regional impact (DRI) and sub-DRIs);

- Incorporates the transportation concurrency incentives from s. 339.282, F.S., into s. 163.3180, F.S.;
- Directs DCA and the Florida Department of Transportation (FDOT) to study and develop a mobility fee and make recommendations to the Legislature by February 15, 2009, regarding the collection of the fee, distribution of the fee, and its relationship to impact fees;
- Provides procedures for a community or neighborhood meeting before filing an application for a future land use map amendment and another such meeting before an adoption hearing;
- Revises certain timeframes for a regional planning council to comment on a proposed plan amendment and request DCA to review the amendment.
- Provides that a comprehensive plan or plan amendment is deemed abandoned if a local government fails to adopt the comprehensive plan or plan amendment within 120 days after receiving written comments from DCA, but allows an extension under certain circumstances;
- Requires a plan or amendment that will be considered by a local government to be filed with the local government and made available to the public at least 5 business days before the hearing and certain types of changes may not be made during the 5-day period or at the hearing without continuing the hearing to the next meeting of the local governing body;
- Requires a super majority vote of the members of the governing body of the local government present at a hearing for text amendments with some exceptions;
- Limits plan amendments to once per year with some exceptions and narrows the number of exceptions;
- Removes the "demonstration project" status of optional sector planning and increases the minimum acreage for a plan to 10,000 contiguous acres;
- Discontinues the Local Government Comprehensive Planning Certification Program, but allows the four municipalities that are currently certified communities to continue adopting plan amendments using the process currently in statute and their certification agreement or notice and retains an exemption from DRI-review for one of the certified communities;
- Requires expedited plan amendment review for certain developments that include at least 15 percent long-term affordable housing units in counties with a population greater than 75,000 and municipalities within those counties;
- Provides for optional expedited review for certain developments that include at least 15 percent long-term affordable housing units in counties with a population fewer than 75,000;
- Requires local governments, by July 1, 2009, to provide for the unified and expedited review of certain developments that include at least 15 percent long-term affordable housing units;
- Requires local governments to amend their comprehensive plans by July 1, 2009, to provide a 15-percent density bonus if land is donated for the development of affordable housing and for residential or mixed-use development located within 2 miles of an existing employment center or an employment center that has received site plan approval;
- Revises the window for agency comments using the alternative state review process and allows certain types of plan amendments to be reviewed using this process;

- Provides a penalty for failing to comply with provisions relating to the preparation of an inventory list and disposition of county and municipal property for affordable housing;
- Requires the Division of State Lands to annually prepare an inventory list of nonconservation lands meeting certain requirements and provide that list to specified entities;
- Extends certain DRI development orders and other associated permits for 3 years;
- Provides an exemption from DRI review for certain developments located within 5 miles of a state-sponsored biotechnical research facility.
- Requires the siting of certain charter schools to be consistent with the local comprehensive plan;
- Requires district school boards, beginning July 1, 2009, and every 3 years thereafter, to prepare an inventory of real property to which it holds fee simple title and which is not included in the 5-year district facilities work plan, and to determine if any of those properties are appropriate for affordable housing;
- Requires charter schools meeting certain requirements to serve as a public shelter for emergency management purposes in certain areas; and
- Repeals s. 339.282, F.S., relating to transportation concurrency incentives, and s. 420.615, F.S., relating to affordable housing land donation density bonus incentives.

This bill substantially amends sections 70.51, 125.379, 163.3174, 163.3177, 163.31771, 163.3178, 163.3180, 163.3181, 163.3184, 163.3187, 163.3245, 163.3246, 163.32465, 166.0451, 253.034, 288.975, 380.06, 380.0651, 1002.33, 1013.33, and 1013.72; creates sections 163.32461 and 1011.775; and repeals sections 339.282 and 420.625 of the Florida Statutes.

II. Present Situation:

Disposition of County and Municipal Property for Affordable Housing

In 2006, the Legislature enacted provisions requiring counties and municipalities to prepare an inventory every three years of the property to which they hold fee simple title. The inventory has to include the address and legal description of the real property, whether it is vacant or unimproved, and appropriate for affordable housing. The governing body of the local government must review the inventory list at a public hearing and review that list at a public meeting. Any properties identified as appropriate for use as affordable housing may be offered for sale as and the proceeds used to purchase land for affordable housing, to increase the local government fund earmarked for affordable housing, sold with a restriction that requires the property to be developed as affordable housing, or donated to a non-profit organization for the development of permanent affordable housing.

Local Planning Agencies

Currently, the governing body of a local government may designate itself as the local planning agency with the addition of a nonvoting school board representative. A local planning agency prepares a comprehensive plan or amendment after the required hearings and makes recommendations to the local governing body regarding the adoption or amendment of the local plan.

Plan Amendments

A local government may amend its comprehensive plan provided certain conditions are met including two advertised public hearings on a proposed amendment before its adoption and mandatory review by the DCA. A local government may amend its comprehensive plan only twice per year with certain exceptions. Small-scale plan amendments are treated differently. These amendments may not change goals, policies, or objectives of the local government's comprehensive plan. Instead, these amendments propose changes to the future land use map for site-specific small scale development activity. The DCA does not issue a notice of intent for small scale development amendments.

Accessory Dwelling Units

In 2006, the Legislature authorized local governments to allow accessory dwelling units in any area zoned for single-family residential use based upon a finding that there is a shortage of affordable rental units in the jurisdiction. Building permit applications for a unit authorized under an ordinance adopted pursuant to this provision requires an affidavit from the applicant attesting the unit will be rented at an affordable rate. Units allowed under such an ordinance count towards a local government's affordable housing component in the housing element of its local comprehensive plan.

Coastal High Hazard Areas

Section 163.3178, F.S., provides for the mitigation of a comprehensive plan amendment in coastal high-hazard areas. Subsection (9) of s. 163.3178, F.S., provides an alternative for complying with rule 9J-5.012(3)(b)6. and 7., F.S. Local governments are required to amend their future land use maps and coastal management elements by July 1, 2008, to include the definition of coastal high hazard area as provided in s. 163.3178, F.S.

Transportation Concurrency

The Growth Management Act of 1985 requires local governments to use a systematic process to ensure new development does not occur unless adequate infrastructure is in place to support the growth. The requirement for public facilities and infrastructure to be available concurrent with new development 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.

In 2005, 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

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 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.[1] Multi-use developments contain a mix of land uses and multi-use 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.

School Concurrency

In 2005, the Legislature enacted statewide concurrency requirements. Adequate school facilities must be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval. Each local government must adopt a public school facilities element and the required update to the interlocal agreement by December 1, 2008. A local government's comprehensive plan must also include proportionate fair-share mitigation options for schools.

Alternative State Review Process Pilot Program

In 2007, the Legislature created a pilot program to provide an alternate, expedited process for plan amendments with limited state agency review. Pilot communities transmit plan amendments, along with supporting data and analyses to specified state agencies and local governmental entities after the first public hearing on the plan amendment. Comments from state

[1] S. 380.06(1), F.S.

agencies may include technical guidance on issues of agency jurisdiction as it relates to ch. 163, part II, F.S., the Growth Management Act. Comments are due back to the local government proposing the plan amendment within 30 days of receipt of the amendment.

Following a second public hearing that shall be an adoption hearing on the plan amendment, the local government transmits the amendment with supporting data and analyses to DCA and any other state agency or local government that provided timely comments. An affected person, as defined in s. 163.3184(1)(a), F.S., or DCA may challenge a plan amendment adopted by a pilot community within 30 days after adoption of the amendment. DCA's challenge is limited to those issues raised in the comments by the reviewing agencies.

Strategic Intermodal System
The Florida Department of Transportation (FDOT) is responsible for establishing level-of-service standards on the highway component of 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.

Optional Sector Plans
The optional sector planning process is designed to avoid the duplicative data and analysis for developments of regional impact while ensuring adequate mitigation of a development's impacts. The current minimum threshold for an optional sector plan is 5,000 acres. This process involves the development of a long-term, build-out overlay and detailed specific area plans.

Local Government Comprehensive Planning Certification Program
The Local Government Comprehensive Planning Certification Program was created as a successor to the Florida Sustainable Communities Demonstration Project. The purpose of this program was to designate areas appropriate for contiguous, compact urban growth and development within a 10-year planning timeframe. This program has had limited participation. There are currently four certified communities – Freeport, Lakeland, Miramar, and Orlando.

III. Effect of Proposed Changes:

Disposition of County Property for Affordable Housing
Section 125.379, F.S., is renumbered as s. 163.32431, F.S., and requires a county to complete the required inventory list and any update of all real property the county owns in fee simple which may be appropriate for affordable housing as a precondition to receiving any state affordable housing funding.

Local Planning Agencies
Section 163.3174, F.S., is amended to prohibit members of the governing body of a local government from also serving on the local planning agency with the exception of municipalities having a population of 5,000 or fewer.

Required and Optional Elements of the Local Comprehensive Plan
Section 163.3177, F.S., is amended to extend the deadline to December 1, 2009, for a local government to submit a financially feasible 5-year schedule of capital improvements. Also, the

prohibition on future land use map amendments until a local government adopts and transmits the financially feasible schedule is delayed until December 1, 2009.

The CS requires a local comprehensive plan to be consistent with a school district's facilities plan approved under s. 1013.35, F.S.

The statute is also amended to include the discouragement of urban sprawl and energy efficient land use patterns that reduce vehicle-miles traveled as part of the basis of a local government's future land use plan. Also, counties are encouraged to adopt a rural sub-element as part of the future land use plan. This sub-element would apply to agricultural, rural, and open lands or a similar land use. The sub-element shall include goals, objectives, and policies to enhance rural economies, promote the viability of agriculture, promote appropriate economic development, discourage urban sprawl, and protect natural resources. Rural, agricultural, conservation, and areas that may be converting to an urban land use and appropriate sites for affordable housing are to be identified in the sub-element, along with areas that may considered for the rural land stewardship program, sector planning, or a new community or town.

The housing element requirement for local comprehensive plans is revised to include compliance with ss. 163.32431 or 163.32432 that requires an inventory list of appropriate affordable housing sites owned in fee simple by the local government. The penalty language for certain counties required to adopt a plan by July 1, 2008, for ensuring affordable workforce housing is clarified so that completion of the plan is a precondition to receiving any state affordable housing funding. Also, the CS requires the housing element of a local government's comprehensive plan to address senior affordable housing with supporting infrastructure and public facilities.

The intergovernmental coordination element of a local comprehensive plan must recognize a school district's educational facilities plan approved under s. 1013.35, F.S. Also, the public buildings and related facilities element must be coordinated with the public schools facilities element and may not impose design standards, site plan standards, or other conditions that are inconsistent with s. 1013.35, F.S., or with maintaining a balanced, financially feasible school district facilities work plan.

Minimum Planning Criteria

DCA is authorized to amend ch. 9J-5, Florida Administrative Code, to establish different minimum planning criteria for local governments based on current and projected population, size of the local jurisdiction, the amount and nature of undeveloped land, and the scale of public services provided by the local government. Provisions relating to the optional development of a community vision and designation of an urban service boundary are deleted.

Accessory Dwelling Units

Section 163.31771, F.S., is amended to require a local government to amend its comprehensive plan, rather than adopting an ordinance, to allow accessory dwelling units in an area zoned for single-family residential use. If an accessory dwelling unit is subject to a recorded land use restriction agreement limiting its use to affordable housing, the unit is exempt from transportation concurrency and impact fees. Accessory dwelling units may not be located on land within a coastal high-hazard area, an area of critical state concern, or on lands identified as environmentally sensitive in the local comprehensive plan.

Coastal High-Hazard Areas

The CS amends s. 163.3178, F.S., redefining the coastal high hazard area to include all lands from the mean low-water line to the inland extent of the category 1 storm surge area as depicted in the most current SLOSH Storm Surge Atlas. Lands may be excluded from this definition based on site specific, reliable data and analysis. The CS revises the criteria applicable to a plan amendment using an alternative method for mitigation instead of satisfying the state coastal high-hazard provisions under rule 9J-5.012(b)6. and 7., Florida Administrative Code. Specifically, the area subject to the plan amendment may not be within a designated area of critical state concern, include areas within the FEMA velocity zones, subject to coastal erosion, seaward of the coastal construction control line, or subject to repetitive damage from coastal storms and floods. The local government must have adopted, as part of its comprehensive plan, hazard mitigation strategies that address unsafe structures subject to repetitive losses, measures to reduce exposure to hazards, and a post disaster redevelopment plan. Further, the plan amendment will not be found in compliance unless certain evacuation times are met or the appropriate mitigation is provided to achieve these evacuation times in a category 5 event. The deadline for local governments to include the definition of "coastal high-hazard area" in their future land use map and coastal management element is extended to July 1, 2009.

Transportation Concurrency Exception Areas

Section 163.3180, F.S., is amended so that, effective July 1, 2008, TCEAs are established for any areas identified in a municipality's comprehensive plan as urban infill development, urban redevelopment, downtown revitalization, or urban infill and redevelopment. In the remaining areas, a local government may also establish a TCEA in a municipality or unincorporated area of the county by designating an area in its comprehensive plan as urban infill development, urban redevelopment, downtown revitalization, urban infill and redevelopment, or an urban service specifically designated as an exception area to accommodate compact urban development for projected population growth within a 10-year planning period.

The requirement in s. 163.3180(5), F.S., to implement long-term strategies to fund mobility in a TCEA, including alternative modes of transportation, does not apply to those areas statutorily designated as an exception area on July 1, 2008. Areas designated after that date require long-term strategies for mobility and DCA and FDOT must be consulted regarding the effect of a proposed TCEA on SIS facilities. The comprehensive plan amendment establishing the TCEA must provide for mitigation of impacts to SIS facilities.

A local government is no longer required to submit a summary of its de minimus records to show it has not exceeded the 110-percent threshold as part of the annual update to the capital improvements element. Local governments are required to consult with DCA, in addition to FDOT, regarding the impact a proposed concurrency management area will have on SIS facilities and the development of a plan to mitigate any impacts.

In s. 163.3180(8), F.S., the requirement that 110 percent of the actual transportation impact caused by previously existing development be reserved for redevelopment is increased to 150 percent. Local governments must coordinate a long-term transportation concurrency management system that corrects existing deficiencies and prioritizes addressing backlogged facilities with the appropriate metropolitan planning organization.

Subsection (15) of s. 163.3180, F.S., is amended to delete obsolete deadlines for transportation concurrency management areas and multimodal transportation districts.

Proportionate Share for Transportation Impacts

The proportionate-share contribution provisions for DRIs under s. 163.3180(12), F.S. are revised to provide that such contribution is sufficient if it pays for an improvement benefiting a network of regionally significant transportation facilities if the impacts on SIS, the Florida Intrastate Highway System, and other regionally significant roadways outside of the local government's jurisdiction are mitigated based on priority improvements recommended by a regional planning council. The term "backlogged transportation facility" is defined as one on which the existing level of service plus committed trips exceeds the adopted level of service. A developer may not be required to fund or construct a transportation improvement as proportionate share mitigation which is more extensive than necessary to solely mitigate the impacts of the proposed development because the improvement is on a backlogged transportation facility.

Section 163.3180(16), F.S., is amended to allow, as an alternative to the method in subsection (12), proportionate fair-share mitigation to be calculated using a vehicle and people miles traveled methodology or an alternative methodology in a local government's comprehensive plan that ensures development impacts on transportation facilities are mitigated. A new paragraph (i) is added to subsection (16), providing if a developer contributes funds, lands, or other mitigation to address the impacts of a phase or stage of development that is not a DRI, all transportation impacts are deemed fully mitigated in any subsequent transportation analysis for another phase or stage of development.

School Concurrency

Section 163.3177(12)(i), F.S., is amended to extend the deadline for local governments to adopt a public schools facilities element and the required updates to the interlocal agreement until December 1, 2009.

School concurrency provisions in s. 163.3180(13), F.S., are amended to require school districts that include relocatables in their inventory of student stations to also include relocatables in their calculation of school capacity when determining whether levels of service have been achieved. Local governments are required to ensure each concurrency service area contains a public school of each type. Also, the capacity of a school serving a contiguous area shall be at 100 percent capacity for the type of school based on the adopted level-of-service standard.

Paragraph (e) of s. 163.3180(13), F.S., is amended to clarify the availability standard for public school facilities. The CS specifies that a development must mitigate its own impacts on public school facilities, but is not responsible for the additional cost of reducing or eliminating backlogs or addressing class size reduction.

Charter schools as a mitigation option are addressed in this CS. Appropriate mitigation options for school concurrency shall include the construction of charter schools if such school is:

- Limited with respect to enrollment to those students residing within a defined geographic area as defined in s. 1002.33(10)(e)4., F.S.;

- Owned by a nonprofit entity or a local government;
- Constructed to comply with the life safety requirements of Florida State Requirements for Educational Facilities (SREF); and
- Governed by a charter that provides for the reversion of the facility to the district school board if the facility ceases to be used for public educational purposes.

The refusal of a local government or district school board to accept a development agreement with a charter school facility is limited to whether the facility meets these requirements.

The CS requires the methodology used to calculate student generation rates and the cost per student station for impact fees to be consistent with the adopted school concurrency ordinance. For both impact fees and proportionate share calculations, the percentage of relocatables used by a school district and the revenues received by the school district shall be considered when determining the average cost of a student station.

This CS limits the authority of a local government to deny a development permit or comprehensive plan amendment for reasons related to school concurrency. After a local government implements school concurrency, a development permit may not be denied if capacity is available under the concurrency service areas in s. 163.3180(13)(c), F.S., availability standards and mitigation options in s. 163.3180(13)(e), F.S., or the developer has executed a legally binding commitment to provide proportionate share mitigation for the impact on school facilities.

Transportation Concurrency Initiatives

A new subsection (17) is added to s. 163.3180, F.S., to transfer the provisions of s. 339.282, F.S., into part II of ch. 163, F.S. These provisions allow a developer or property owner who voluntarily contributes right-of-way and constructs or expands a state transportation facility or segment that:

- Improves traffic flow, capacity, or safety, then the contribution may be applied as a credit against future transportation requirements if certain conditions are met; or
- Is identified in the capital improvements schedule and other conditions are met, then a contribution to the local government collector and the arterial system may be applied as a credit toward any future transportation concurrency requirements.

Transportation Mobility Fee

DCA is directed in this CS to study and develop a methodology for a mobility fee system. DCA and FDOT will convene a study group with representatives from the regional planning councils, local governments, the development community, land use and transportation professionals, and the Legislature. This study group shall develop a uniform mobility fee methodology that will apply statewide and replace the existing transportation concurrency management system. The mobility fee shall provide for mobility needs, ensure development mitigates its impacts on the transportation system, and promote compact, energy efficient development. By February 15, 2009, DCA shall provide recommendations to the Legislature regarding the appropriate uniform mobility fee methodology, whether the mobility fee system should be applied statewide, a schedule for local governments to amend their comprehensive plans to incorporate the mobility

fee, a system for collecting and allocating the fees among state and local transportation facilities, and the relationship between mobility fees and transportation impact fees.

Public Participation in the Comprehensive Planning Process

Section 163.3184, F.S., is amended to require an applicant for a future land use map amendment to hold a neighborhood meeting at least 30 but not more than 60 days before filing the application with the local government. The CS prescribes procedures for notifying surrounding property owners of the proposed map amendment. It also requires an applicant to hold a second noticed community or neighborhood meeting to present and discuss a map amendment at least 15 but not more than 45 days before the local government's scheduled adoption hearing. This meeting requirement does not apply to small scale amendments unless prescribed by local government ordinance, and then only one meeting may be required for a small scale amendment. These provisions apply to all applications for map amendments filed after January 1, 2009.

Local Government Adoption of Comprehensive Plan Amendments

Subsections (4) and (6) of s. 163.3184, F.S., are amended to revise certain timeframes for a regional planning council to comment on a proposed plan amendment and request DCA to review the amendment.

Subsection (7) of s. 163.3184, F.S., is amended to provide that if a local government fails to adopt a comprehensive plan or plan amendment within 120 days after receiving written comments from DCA, the plan or plan amendment is deemed abandoned and may not be considered until the next amendment cycle. However, DCA may grant one or more extensions not to exceed 360 days from issuance of the agency report or comments if a local government certifies the in writing to DCA, before the 120-day period expires, that the applicant is proceeding in good faith to address specific items raised by the agency. During any extension granted by DCA, the applicant must file a status report with the local government and DCA every 60 days which identifies those items continuing to be addressed and the manner in which they are being addressed.

Subsection (15) of s. 163.3184, F.S., is amended to require a proposed plan or amendment that will be considered by a local government to be filed with the local government and made available to the public at least 5 business days before the adoption hearing, including through the local government's website if one is maintained. The proposed plan amendment may not be altered during the 5 days preceding the hearing or at the hearing if the alteration increases the permissible density, intensity, or height or decreases the minimum buffers, setbacks, or open space without continuing the hearing to the next meeting of the local governing body. As part of the adoption package, the local government must certify to DCA that it has complied with these provisions.

An exemption from state and regional oversight for certain plan amendments adopted by a local government that adopted a community vision and urban service boundary is deleted.

Section 163.3187, F.S., is amended to require a supermajority vote of the members of a governing body present at the hearing for any text amendment except for:

- Special area text policies associated with a future land use map amendment;

- Text amendments to the schedule of capital improvements;
- Text amendments implementing recommendations in an evaluation and appraisal report, and
- Text amendments that implement a new statutory requirement not previously incorporated into the comprehensive plan.

The CS limits plan amendments to no more than once per calendar year. It does allow plan amendments one time per calendar year in addition to the once-per-year limitation for:

- A future land map amendment and special area polices associated with urban development, urban redevelopment, downtown revitalization, urban infill and redevelopment, or an urban service area designated pursuant to ss. 163.3164, 163.2517, or 163.3180, F.S.
- Future land use map amendments within a rural area of critical economic concern if the Office of Tourism, Trade and Economic Development certifies the plan amendment furthers certain economic objectives.
- A plan amendment establishing or implementing a rural land stewardship area or a sector plan.

The CS narrows the number of exceptions to the limitation on the frequency of plan amendments. The new list of exceptions from the once-per-year limitation include those mentioned immediately above and amendments: in the case of emergency, directly related to a proposed DRI or Florida Quality Development, for small scale development, required by a compliance agreement, changing the schedule in the capital improvements element and those related directly to the schedule, for port transportation facilities, establishing public school concurrency, adopted pursuant to a final order issued by the Administration Commission or the Florida Land and Water Adjudicatory Commission, for up to 20 acres in an area designated as a rural area of critical economic concern, and plan amendments related to affordable housing and that qualify for expedited review under s. 163.32461, F.S.

Under the CS, a small scale amendment is not effective until it has been rendered to DCA and DCA has certified to the local government that the amendment qualifies as a small scale amendment.

Optional Sector Planning

Section 163.3245, F.S., is amended to remove the "demonstration project" status of the optional sector plan program. An optional sector plan must cover at least 10,000 contiguous acres. The terminology is revised to refer to a "conceptual long-term overlay plan." Following the adoption of a conceptual long-term overlay plan, the underlying future land use designations may only be used if consistent with the plan. The CS revises the requirements for maps and text supported by data and analysis to support a conceptual long-term overlay plan.

Local Government Comprehensive Planning Certification Program

Section 163.3246, F.S., is amended to discontinue the Local Government Comprehensive Planning Certification Program. The four municipalities that are currently certified communities may continue to adopt plan amendments in accordance with s. 163.3246, F.S., and their

certification agreement or notice. Also, the municipality of Freeport retains an exemption from DRI review within its certification area under certain circumstances.

Affordable Housing Growth Strategies

Section 163.32461, F.S., is created to provide expedited plan amendment review for certain developments that include at least 15 percent long-term affordable housing units in counties having a population greater than 75,000 and municipalities within those counties. Those counties with a population fewer than 75,000 may also receive expedited review of developments that provide the required affordable units if the county has adopted a rural sub-element.

All local governments are required to establish a process by July 1, 2009, for the unified and expedited review of certain developments that include at least 15 percent long-term affordable housing units. The CS provides specific timeframes for reviewing a plan amendment at the local level, and requires the plan amendment adoption hearing and any rezoning to occur simultaneously. Local governments are also required to expedite applications for subdivision, site plan approval, and building permits for development that include the required affordable housing units so that the approval, approval with conditions, or denial occurs in less than half the time it normally takes to process.

The CS requires local governments to amend their comprehensive plans by July 1, 2009, to provide a 15-percent density bonus if land is donated for the development of affordable housing and the donated land meets certain criteria. The land receiving the density bonus has to be located in the same jurisdiction as the donated land and suitable for development as affordable housing. The local government may transfer all or part of the donated land to non-profit entity for development of housing and 30 percent of those units must be permanently affordable. Local governments must also amend their comprehensive plans to provide a 15-percent density bonus for residential or mixed-use development located within 2 miles of an existing employment center or an employment center that has received site plan approval.

Alternative State Review Process

Section 163.32465, F.S., is revised to provide for the review of the following types of plan amendments using the alternative state process: future land use map amendments related to certain urban infill development, affordable housing amendments, and future land use map amendments within an area designated as a rural area of critical economic concern. Language regarding the agency comment period under alternative state review is revised to start the 30-day period for comments on the date DCA notifies the local government that its plan amendment package is complete. Comments from state agencies and local governments must be transmitted to DCA. The plan amendment must be adopted by the local government within 120 days after receipt agency comments or the amendment is deemed abandoned and cannot be considered until the next available amendment cycle. DCA is authorized to adopt procedural rules to administer the alternative state review program.

Disposition of Municipal Property for Affordable Housing

Section 166.0451, F.S., is renumbered as s. 163.32432, F.S., and amended to require a municipality to complete the required inventory list and any update of all real property the municipality owns in fee simple which may be appropriate for affordable housing as a precondition to receiving any state affordable housing funding.

Nonconservation Lands and Affordable Housing
Section 253.034, F.S., is amended to require each land manager for state-owned lands to indicate to the Governor and Cabinet (sitting as the Board of Trustees of the Internal Improvement Trust Fund) those lands that are not being used for the purpose they were originally leased, every 5 years instead of every 10 years. Also, beginning December 1, 2008, the Division of State Lands of the Department of Environmental Protection shall annually submit to the Legislature an inventory identifying all nonconservation lands meeting certain requirements. The division must publish a copy of this annual inventory on its website and notify via email the head of the governing body of each local government with jurisdiction over lands in the inventory.

Sections 70.51, 163.3177, 163.3217, 163.3182, 171.203, and 288.975, F.S., are amended to narrow the list of exceptions to the limitation on the frequency of plan amendments.

Developments of Regional Impact
Section 380.06, F.S., is amended to provide that if a developer contributes funds, lands, or other mitigation to address the impacts of a phase or stage of development, all transportation impacts are deemed fully mitigated in any subsequent transportation analysis for another phase or stage of development. In addition, all development order, phase, buildout, commencement and expiration dates, and all related local government approvals for DRIs and Florida Quality Development are extended for three years if the development was under active construction on Jul 1, 2007, or for which a development order was adopted after July 1, 2006.

An exemption from DRI review is provided for a proposed development of up to an additional 150 percent of the office development threshold if located within 5 miles of a state-sponsored biotechnical research facility. Section 380.0651, F.S., is amended to provide a similar exemption for multiuse DRIs within 5 miles of a state-sponsored biotechnical facility.

District School Boards and Surplus Properties
Section 1011.75, F.S., is created to require each district school board by July 1, 2009, and every 3 years thereafter to prepare an inventory of real property to which it holds fee simple title and which is not included in the 5-year district facilities work plan. The district school board shall review the inventory list at a public meeting and determine if any property is surplus property and appropriate for affordable housing. For any real property that is not included in the 5-year district facilities work plan and which is not determined to be appropriate to surplus for affordable housing, the board shall state in the inventory list the public purpose for which the board intends to use the property. The CS authorizes the district school board to sell properties identified as appropriate for use as affordable housing and use the proceeds to purchase land for the development of affordable housing or to increase the local government's fund for affordable housing, sell the property with a restriction requiring the development of the property as permanent affordable housing, donate the property to a nonprofit housing organization for the development of permanent affordable housing, or otherwise make the property available for the production and preservation of permanently affordable housing.

Educational Facilities
Section 1002.33, F.S., is amended to require the siting of certain charter schools to be consistent with the local comprehensive plan.

Section 1013.33, F.S., is amended to specify that a local government may not impose standards and conditions that exceed any state requirements for educational facilities unless they are mutually agreed upon and consistent with maintaining a balanced, financially feasible school district facilities work plan.

Section 1013.372, Florida Statutes, is amended to require a charter school that satisfies certain requirements to serve as a public shelter for emergency management purposes at the request of the local emergency management agency. There are exceptions to this requirement if the charter school is located in certain evacuation zones or there is no hurricane shelter deficit in the area.

Repealed Provisions
Section 339.282, F.S., relating to transportation concurrency incentives, is repealed.

Section 420.615, F.S., relating to affordable housing land donation density bonus incentives, is repealed.

The CS makes numerous conforming changes to correct cross-references.

This CS shall take effect July 1, 2008.

Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The CS requires some counties and municipalities to develop a process for expediting local review of certain types of plan amendments, subdivisions, site plan approvals, and building permits. It also requires local governments to amend their comprehensive plans to provide density bonuses in certain circumstances. Pursuant to s. 18, Art. VII of the State Constitution, a finding of important state interest and a two-thirds vote of the membership of each house is required to effectively bind local governments if the costs to comply with these provisions of the CS exceed $1.8 million.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS contains provisions that may increase the availability of affordable housing and provide for streamlined review and expedited permitting for developments that include a specified percentage of long-term affordable housing units.

C. Government Sector Impact:

The CS requires local governments to adopt a process for the unified and expedited review of certain developments that include at least 15 percent long-term affordable housing units. Also, local governments must amend their comprehensive plans by July 1, 2009, to provide a 15-percent density bonus if land is donated for the development of affordable housing and the donated land meets certain criteria and a 15-percent density bonus for residential or mixed-use development located within 2 miles of an existing employment center or an employment center that has received site plan approval.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The CS implements the intent of the filed bill to revise laws related to growth management. Those revisions include enhanced participation by citizens in the plan amendment process, limitations on the frequency of plan amendments, incentives for the development of additional affordable housing units, designation of certain urban areas as transportation concurrency exception areas, and the creation of a process for studying and developing a mobility fee as a more effective means to mitigate traffic impacts.

B. Amendments:

None.