

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 Transportation and Economic Development Appropriations Committee

BILL: PCS/SB 1786

INTRODUCER: Transportation and Economic Development Appropriations Committee

SUBJECT: Comprehensive Planning

DATE: March 27, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weaver	Noble	TA	Pre-meeting
2.			GO	
3.			WPSC	
4.			RC	
5.				
6.				

I. Summary:

This bill establishes fees for review of proposed large scale comprehensive plan amendment packages and adopted updates to local capital improvement elements by the Department of Community Affairs (DCA). All collected fees are to be deposited into the Operating Trust Fund within the DCA. DCA must submit a report to the Speaker of the House of Representatives and President of the Senate by October 1, 2010, evaluating the fee collection.

The bill is expected to have a positive fiscal impact of \$2.4 million.

This bill creates ss. 163.3184(3)(e), Florida Statutes.

II. Present Situation:

Comprehensive 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.¹ By rule, the DCA reviews a submitted comprehensive plan amendment to insure it has a complete application package within 5 days of receiving the comprehensive plan amendment.² A local government may amend its comprehensive plan only twice per year with certain exceptions. At present, the statutorily prescribed timeline for a comprehensive plan amendment days to be processed is 136 days. 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

¹ Section 163.3189, F. S.

² F.A.C. 9J-11.008.

map for site-specific small scale development activity. The DCA does not issue a notice of intent stating whether a small scale development amendment is in compliance with the comprehensive plan.

Alternative State Review Process

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 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, but the statute encourages the DCA to focus its challenges on issues of regional or statewide importance. DCA does not issue a report detailing its objections, recommendations, and comments. The alternative state review process shortens statutorily prescribed timeline for comprehensive plan amendments process from 136 days to 65 days

Florida Statutes does not authorize the DCA to charge a fee for the review of local government comprehensive plan amendments.

III. Effect of Proposed Changes:

The bill requires a local government to pay a \$5,000 fee for the review of each proposed amendment package submitted pursuant to s. 163.3184(3), F.S. A \$6,500 fee will be required for an expedited review of a proposed amendment package submitted pursuant to s. 163.32465(4), F.S., even if some of the amendments in that package are not required to undergo expedited review. In addition, a local government must pay a \$1,250 fee for the review of an adopted comprehensive plan amendment updating a local comprehensive plan's capital improvement element pursuant to s. 163.3177(3)(b)2, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

On its face, the bill requires cities and counties to pay a fee for the review of each proposed comprehensive plan amendment submitted to the state after July 1, 2009. It is anticipated that this fee will generate \$2.4 million statewide. However, under current law, cities and counties may opt to require the proponent of the plan amendment to pay the costs incurred by the local government related to the plan amendment.

Section 18(a) of Article VII of the State Constitution provides, in pertinent part, that a city or county is not bound by a general law which requires the expenditure of funds

unless the legislature has determined that such law fulfills an important state interest and unless the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature. Other exceptions and exemptions to this provision do not appear to be applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill establishes a fee of \$5,000 for the review of a proposed amendment package; a \$6,500 fee for an expedited review of a proposed amendment package; and a \$1,250 fee for the review of an adopted comprehensive plan amendment updating a local comprehensive plan's capital improvement element.

B. Private Sector Impact:

Current law does not preclude local governments from passing the cost of the state fees on to the party interested in a particular plan amendment.

C. Government Sector Impact:

	FY2009-10	FY2010-11	FY2011-12
Estimated Receipts*	\$2,423,750	\$2,423,750	\$2,423,750

*The DCA based its revenue projections on the following assumptions:

Based on a five-year average of 340 large scale amendment packages per year and assuming 255 submitted under s. 163.3184(3) at \$5,000.00, and 85 (25%) submitted under s. 163.32465(4) at \$6,500.00; would raise \$1,827,500. The remaining \$596,250 is based on 477 local governments submitting CIE updates every December as required by law at \$1,250 each.

The revenue generated from these fees will be deposited into the Operating Trust Fund within the DCA. The Senate Proposed Committee Bill 7070 uses the revenue from these fees to support activities in the Division of Community Planning and the Building Codes and Standards program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
