

FINAL BILL ANALYSIS

BILL #: CS/HB 1317

FINAL HOUSE FLOOR ACTION:

117 Y's 0 N's

SPONSOR: Rep. Adkins

GOVERNOR'S ACTION: Approved

COMPANION BILLS: N/A

SUMMARY ANALYSIS

CS/HB 1317 passed the House on April 27, 2011, and subsequently passed the Senate on May 2, 2011. The bill was approved by the Governor on June 21, 2011, chapter 2011-262, Laws of Florida, and took effect on July 1, 2011. The bill provides for the creation of the Nassau County targeted job creation zone pilot project. The bill authorizes Nassau County to designate an area located along a county or state road within a two-mile radius of the intersection of the Interstate Highway System or a Strategic Intermodal System roadway as a targeted job creation zone that will be a transportation concurrency exception area (TCEA).

The bill authorizes Nassau County as part of the pilot project to:

- adopt specific transportation alternatives within the targeted area that implement mobility approaches in order to achieve a healthy and vibrant job creation zone, including alternative modes of transportation (alternative transportation strategies must be developed in consultation with the Florida Department of Transportation);
- adopt complementary land use recommendations and transportation strategies that reflect the county's vision plan for its future;
- designate specific target industries within the county or municipality; and
- create public-private partnerships for the purpose of funding targeted industry development or expansion.

The bill requires the targeted job creation zone to be designated in Nassau County's comprehensive plan. A comprehensive plan amendment and land development regulations are necessary to implement the job creation zone pilot project.

The bill requires that plan amendments identifying the targeted job creation zone pilot project and future plan amendments within the targeted job creation zone implementing specific provisions of the bill are to be adopted using the alternative state review process. Amendments ineligible for the alternative state review process may not be adopted within the targeted job creation zone.

The bill provides an exemption from general law. Nassau County currently does not meet the requirements necessary to establish a TCEA under s. 163.3180(5), F.S., and the county is not permitted to use the alternative state review process under s. 163.32465, F.S., to adopt plan amendments other than to adopt an urban service area.

The bill provides that the targeted job creation zone pilot project will be repealed on July 1, 2017, unless reenacted by the Legislature.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF CHANGES:

Current Situation

Nassau County

Nassau County is located in the northeast corner of Florida along the Atlantic Ocean and Interstate 95. The southern portion of the county borders Duval County and the county's northern and western borders are shared with the State of Georgia. Duval County has been designated as a dense urban land area, and as a result, the entire county qualifies as a transportation concurrency exception area under s. 163.3180(5), F.S.

Transportation Concurrency

Concurrency requires public facilities and services to be available concurrent with the impacts of development. Concurrency in Florida is required for sanitary sewer, solid waste, drainage, potable water, parks and recreation, schools and transportation. Concurrency is tied to provisions requiring local governments to adopt level of service standards, address existing service deficiencies, and provide infrastructure to accommodate new growth reflected in the comprehensive plan.

The statute requires local governments to employ a systematic process to ensure new development does not occur unless adequate transportation infrastructure is in place to support the growth. To implement concurrency, local governments must define what constitutes an adequate level of service (LOS) for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for that period.

The Florida Department of Transportation (FDOT) is responsible for establishing level-of-service standards on the highway component of the strategic intermodal system (SIS) and for developing guidelines to be used by local governments on other roads. The SIS consists of statewide and interregional significant transportation facilities and services and plays a critical role in moving people and goods between major economic regions in Florida, to and from other states, as well as to shipment centers for global distribution.

Transportation Concurrency Exception Areas (TCEAs)

Alternatives to the general transportation concurrency requirements are available under certain circumstances. Public transportation facilities, certain infill or redevelopment projects, and projects whose impacts may be considered insignificant or "*de minimis*" are exempted from concurrency, when certain criteria are met.

The TCEA is the most widely used alternative to concurrency. Chapter 163.3180, F.S., authorizes local governments to establish TCEAs – special transportation management areas that are exempt from the transportation concurrency requirement. The Florida Legislature recognized that the concurrency requirement for transportation facilities may discourage urban infill development and redevelopment and enacted exceptions to this requirement to support the goals and policies of Florida's growth management laws.

In 2009,¹ the Legislature designated TCEAs in:

- A municipality that qualifies as a dense urban land area;
- An urban service area that has been adopted into the local comprehensive plan and is located within a county that qualifies as a dense urban land area;
- A county, including the municipalities located therein, which has a population of at least 900,000 and qualifies as a dense urban land area, but does not have an urban service area designated in the local comprehensive plan.

Municipalities that do not qualify as a dense urban land area were permitted to designate the following areas as TCEAs in its local comprehensive plan:

- urban infill (defined in s. 163.3164, F.S.),
- community redevelopment areas (defined in s. 163.340, F.S.),
- downtown revitalization areas (defined in s. 163.3164, F.S.),
- urban infill and redevelopment (under s. 163.2517, F.S.), or
- urban service areas (defined in s. 163.3164, F.S.) or areas within a designated urban service boundary (defined under s. 163.3177(14), F.S.).

Counties that do not qualify as a dense urban land area were permitted to designate the following areas as TCEAs in its local comprehensive plan:

- urban infill (defined in s. 163.3164, F.S.),
- urban infill and redevelopment (under s. 163.2157, F.S.), or
- urban service areas (defined in s. 163.3164, F.S.).

A local government's comprehensive plan and plan amendments for land uses within a TCEA are automatically deemed to meet the requirement to achieve and maintain level-of-service standards for transportation. TCEAs allow local governments to reduce obstacles that may limit urban infill and redevelopment, thereby lessening urban sprawl, by allowing development to proceed within a designated area despite not meeting the established levels-of-service on roadways.

Alternative State Review Process Pilot Program (s. 163.32465, F.S.)

In 2007, the Legislature created a pilot program to provide an alternative, expedited process for plan amendments based on streamlined state agency review. Under the pilot process, selected communities² transmit proposed plan amendments directly to specified state agencies and local governmental entities after the first public hearing on the plan amendment. Most plan amendments proposed in the pilot program jurisdictions are required to follow the alternative review process.³ In 2009, the Legislature authorized any local government to use the alternative

¹ Ch. 2009-96, L.O.F.

² Local governments subject to the pilot program include: Pinellas and Broward Counties, and the municipalities within these counties, and Jacksonville, Miami, Tampa and Hialeah.

³ Plan amendments not eligible for the alternative review process that must undergo the traditional state review process are those that propose a rural land stewardship area pursuant to s. 163.3177(11)(d), F.S.; propose an optional sector plan; update a comprehensive plan based on an evaluation and appraisal report; implement new statutory requirements; or new plans for newly incorporated municipalities. Small-scale amendments may still be adopted in the pilot program jurisdictions according to s. 163.3187(1)(c) and (3).

state review process to designate an urban service area in its comprehensive plan. State agencies commenting on a plan amendment under the alternative review process may include technical guidance on issues of agency jurisdiction as it relates to chapter 163, part II, F.S. Such comments must clearly identify issues that, if not resolved, may result in an agency challenge to the plan amendment. Comments are sent to the local government proposing the plan amendment within 30 days after the commenting agency receives the amendment.

Following a second public hearing for the purpose of adopting the plan amendment, the local government must transmit the adopted amendment to the state land planning agency 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 the state land planning agency may challenge a plan amendment adopted by a pilot community within 30 days after adoption of the amendment. A challenge by the state land planning agency is limited to those issues raised in the comments by the reviewing agencies, however the state land planning agency is encouraged to focus its challenges on issues of regional or statewide importance. The state land planning agency does not issue a report detailing its objections, recommendations, and comments (ORC report) on the proposed amendment or a notice of intent (NOI) on the adopted amendment. In a challenge initiated by the state land planning agency or an affected person, the local government's determination that the amendment is in compliance is presumed to be correct and is sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance. The alternative state review process shortens statutorily prescribed timeline for comprehensive plan amendments process from 136 days to 65 days.⁴

Effect of the Bill:

Legislative Findings

The bill provides that Nassau County, based upon its proximity to a county designated as a dense urban land area and its shared border with the State of Georgia, faces unique economic challenges that severely impact its efforts to grow existing businesses and industry as well as attract new economic development.

Targeted Job Creation Zone Pilot Project

The bill authorizes the Nassau County Board of Commissioners to designate an area located along a county or state road within a two-mile radius of the intersection of the Interstate Highway System or a Strategic Intermodal System roadway as a targeted job creation zone that will be a TCEA.

The bill authorizes Nassau County as part of the pilot project to:

- adopt specific transportation alternatives within the targeted area that implement mobility approaches in order to achieve a healthy and vibrant job creation zone, including alternative modes of transportation (alternative transportation strategies must be developed in consultation with FDOT);
- adopt complementary land use recommendations and transportation strategies that reflect the county's vision plan for its future;
- designate specific target industries within the county or municipality;

⁴ OPPAGA Report No. 08-62.

- create public-private partnerships for the purpose of funding targeted industry development or expansion.

The bill requires the targeted job creation zone to be designated in Nassau County's comprehensive plan. The bill specifies that a comprehensive plan amendment and land development regulations must be adopted by Nassau County in order to implement the job creation zone pilot project.

Process for Adoption of Plan Amendments within Targeted Job Creation Zone

The bill requires that plan amendments identifying the targeted job creation zone pilot project and future plan amendments within the targeted job creation zone implementing specific provisions of the bill must be adopted using the alternative state review process. Amendments ineligible for the alternative state review process may not be adopted within the targeted job creation zone.

The bill takes effect July 1, 2011, and provides that the targeted job creation zone pilot project will be repealed on July 1, 2017, unless reenacted by the Legislature.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? January 27, 2011.

WHERE? The Florida Times-Union, a daily newspaper published in Duval County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes No

D. ECONOMIC IMPACT STATEMENT FILED? Yes No

The bill will provide local and county government in Nassau County with the tools to establish specific targeted job creation zones that will encourage private sector job creation and economic development.