

## HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

**BILL #:** CS/HB 869 Pinellas Planning Council, Pinellas County  
**SPONSOR(S):** Community & Military Subcommittee, Frishe, and others.  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	13 Y, 0 N, As CS	Read	Hoagland
2) Rulemaking & Regulation Subcommittee	14 Y, 0 N	Miller	Rubottom
3) Economic Affairs Committee	16 Y, 0 N	Read	Tinker

### SUMMARY ANALYSIS

The Pinellas Planning Council (PPC) is a dependent special district that performs the countywide land use planning functions for Pinellas County. The PPC's mission is to oversee the land use planning process of the 24 municipalities and unincorporated Pinellas County to ensure local governments' land use decisions are consistent with the PPC's Countywide Plan. The PPC responsibilities also include other planning issues such as transportation, economic development, and schools.

The Pinellas County Metropolitan Planning Organization (PCMPO) is the transportation planning organization for Pinellas County. The PCMPO is required by federal law; its responsibilities include the development of: (1) a 20-year Long Range Transportation Plan (LRTP); (2) a five-year Transportation Improvement Program (TIP); (3) a two-year Unified Planning Work Program; and (4) related transportation planning studies and projects.

This bill would combine the leadership of the PPC with the leadership of the PCMPO so that a single policymaking body oversees both the land use planning and transportation planning in Pinellas County. The bill amends the charter of the PPC to provide the same council membership requirements as the PCMPO, allowing both entities to function under identical leadership. The bill provides legislative intent to more fully integrate the functions of land use and transportation planning.

Furthermore, this bill codifies all prior special acts of the PPC and consolidates into one special act to be adopted by the Legislature. The codification will result in the repeal of Chs. 73-594, 74-584, 74-586, 76-473, 88-464, and 90-396, L.O.F.

In addition to codifying the PPC's charter and changing the council's membership requirements to merge the PPC and the PCMPO, the bill makes the following substantive changes to the PPC's charter:

- Requires the repeal of the current Countywide Plan and adoption of new Countywide Plan by the Countywide Planning Agency. The new plan must be a broadly defined and policy-based plan with fewer land use categories. The new plan must be adopted by a majority of all council members.
- Requires an annual independent audit to be performed at the PPC's expense (the prior acts only required an independent audit if the auditor general failed to do so).
- Requires that the local governments' comprehensive plans be made consistent with the new Countywide Plan. Consistency is met if the maximum densities and intensities are equal or less than the maximum densities allowed by the Countywide Plan, the permitted uses in local plans are allowed in the Countywide Plan, and the local plans meet any other standards contained in the countywide rules.

The bill takes effect either upon becoming a law or upon final approval of the PCMPO's reapportionment plan (expanding its board from 11 members to 13 members), whichever occurs later. The reapportionment plan is the final step in creating identical boards for both the PPC and the PCMPO, giving each board 13 members.

The bill is expected to have no fiscal impact for the first two years but will save an estimated \$250,000 to \$400,000 a year thereafter as a result of consolidating many of the operational expenses.

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

**STORAGE NAME:** h0869e.EAC

**DATE:** 2/1/2012

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### CURRENT SITUATION

##### **Pinellas Planning Council**

The Pinellas Planning Council (PPC) is a dependent special district created by special act<sup>1</sup> in order to increase planning consistency throughout incorporated and unincorporated Pinellas County.<sup>2</sup> Pinellas County has 24 municipalities, in addition to unincorporated parts of the county, and issues often arise when local governments make planning decisions that affect neighboring units of local government. The PPC was created to allow local governments to discuss and coordinate countywide land use issues. The PPC has thirteen members (some representing groups of communities) who advise the Pinellas Board of County Commissioners by providing policy recommendations. These recommendations are meant to guide the County Commissioners as they act as the Countywide Planning Authority (CPA).

The PPC's goal is to coordinate land use planning in Pinellas County. This includes other planning functions such as transportation, economic development, and schools.<sup>3</sup> These objectives are all placed into the Countywide Plan, which is a limitation on the planning discretion of the local governments.<sup>4</sup>

Currently, the PPC has 13 members, each of whom is a designated representative of the local governments throughout Pinellas County. The PPC's membership requirements are designed to ensure that each local government is represented. However, in order to accommodate all 25 units of local government, the PPC Charter requires that smaller municipalities be jointly represented by one councilmember.<sup>5</sup>

##### **Metropolitan Planning Organizations**

Metropolitan Planning Organizations (MPOs) are federally-mandated organizations that were created to "encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes . . ."<sup>6</sup>

Federal law specifies the duties of an MPO, mandating the development of "long-range transportation plans and transportation improvement plans for metropolitan planning areas . . ."<sup>7</sup> These plans:

[S]hall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.<sup>8</sup>

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<sup>1</sup> See Chapters 73-594, 74-584, 32 74-586, 76-473, 88-464, and 90-396, L.O.F.

<sup>2</sup> See Ch. 88-464, § 1, L.O.F. (PPC Charter § 2).

<sup>3</sup> Ch. 88-464, § 1, L.O.F. (PPC Charter § 2(2)).

<sup>4</sup> Any local government decision that is inconsistent with the Countywide Plan requires a change or exception and must be approved by the PPC and CPA.

<sup>5</sup> Ch. 88-464, § 1, L.O.F. (PPC Charter § 3(1)(g) gives one board position to a joint representative of St. Pete Beach, Treasure Island, and Madiera Beach; § 3(1)(h) gives one board position to a joint representative of Indian Rocks Beach, Redington Shores, Redington Beach, Belleair Beach, Indian Shores, North Redington Beach, and Belleair Shore; § 3(1)(i) gives one board position to a joint representative of Gulfport, Kenneth City, Belleair, South Pasadena, Belleair Bluffs and Seminole).

<sup>6</sup> 23 U.S.C. § 134(a)(1).

<sup>7</sup> 23 U.S.C. § 134(c)

<sup>8</sup> 23 U.S.C. § 134(c)(2).

In addition, federal law requires that MPOs develop “metropolitan area transportation plans and programs to be developed through a continuing, cooperative, and comprehensive (3-C) planning process.”<sup>9</sup> MPOs also serve as a conduit for federal transportation funds to be used for local transportation projects.<sup>10</sup>

## MPO Voting Membership Requirements

Federal law sets the minimum requirements for the voting membership of an MPO.

Each [MPO] that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—(A) local elected officials; (B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and (C) appropriate State officials.<sup>11</sup>

These minimum federal requirements are modified by s. 339.175(3), F.S., which sets out the state requirements for the membership of an MPO in Florida. Section 339.175(3)(a), F.S., requires that: (1) an MPO has between 5 and 19 voting members (the exact number is “determined on an equitable geographic population ratio basis by the Governor”); (2) that county commissioners compose no less than a one-third of the MPO’s membership unless: (i) all the county commissioners are members of the MPO; or (ii) there is “an official of an agency that operates or administers a major mode of transportation has been appointed to an MPO,” in which case county commissioners must comprise at least 20 percent of the MPO membership. All other members of an MPO must be:

[E]lected officials of general-purpose local governments, except that an MPO may include, as part of its apportioned voting members, a member of a statutorily authorized planning board, an official of an agency that operates or administers a major mode of transportation, or an official of Space Florida.<sup>12</sup>

There are currently 11 voting members on the Pinellas County Metropolitan Planning Organization: three Pinellas County Commissioners; seven representatives from local municipalities; and one representative from the Pinellas Suncoast Transit Authority. There is also a non-voting member representing the Florida Department of Transportation, District 7.

## Designation and Redesignation

An MPO must be designated for all urbanized areas (UZAs) in a state, i.e., areas with populations of more than 50,000 individuals,<sup>13</sup> and must also contain, at a minimum, any area expected to become urbanized in the next 20 years.<sup>14</sup> Federal law permits the boundary of an MPO—called the Metropolitan Planning Area Boundaries—to include not only the required UZA areas, but also “may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.”<sup>15</sup> Federal law also states that the governor shall determine the boundaries of a metropolitan planning area by agreement with the MPO.<sup>16</sup>

The PCMPO’s boundaries are identical to the boundaries of Pinellas County.<sup>17</sup> In addition, the PCMPO is surrounded on all sides by neighboring MPOs.<sup>18</sup> Following the decennial census, the governor is authorized to seek an MPO redesignation, which allows, among other things, the consolidation of multiple MPOs into a

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<sup>9</sup> See <http://www.fhwa.dot.gov/planning/metro/index.htm>; see also 12 C.F.R. § 450.306(a).

<sup>10</sup> 23 U.S.C. § 104(f)(3)(A) (requiring that States distribute federal funds to each MPO on a pro rata basis).

<sup>11</sup> 23 U.S.C. § 134(d)(2).

<sup>12</sup> Section 339.175(3)(a), F.S.

<sup>13</sup> 23 U.S.C. § 134(d)(1).

<sup>14</sup> 23 U.S.C. § 134(e)(2)(A).

<sup>15</sup> 23 U.S.C. § 134(e)(2).

<sup>16</sup> 23 U.S.C. § 134(e)(1).

<sup>17</sup> [http://www.mpoac.org/pdf/maps/pinellas\\_county\\_mpo.pdf](http://www.mpoac.org/pdf/maps/pinellas_county_mpo.pdf).

<sup>18</sup> The Pinellas County MPO is bordered to the North by the Pasco County MPO and bordered to the East by the Hillsborough County MPO.

larger, regional MPO.<sup>19</sup> The redesignation process requires an “agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) . . .”<sup>20</sup> Regional consolidation is the current policy suggestion contained in the 2060 Florida Transportation Plan. It states:

Transition Florida’s MPO structure to focus on regional and metropolitan scale transportation issues. This transition may require restructuring of existing MPOs to become independent organizations not housed by a single local government; stronger coordination among MPOs within common urbanized areas or reflecting broader economic relationships, such as building on existing MPO alliances; and *long term consolidation of MPOs* within urbanized areas or broader regions.<sup>21</sup>

## Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S., and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law pursuant to s. 189.429, F.S.:

- shall not be construed to grant additional authority nor to supersede the authority of an entity;
- shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section;
- shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and
- shall not be construed to affect a district’s ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district’s bonded indebtedness.

## PROPOSED CHANGES

CS/HB 869 codifies, reenacts, and amends all of the PPC’s prior special acts in accordance with s. 189.429, F.S.

The bill also amends the PPC’s charter to require that the council has common membership and functions as a single, unified board with the PCMPO. This requires that the PPC’s membership be consistent with the PCMPO’s requirements as specified in s. 339.175(3), F.S.

The bill places the land use planning functions of the PPC and the transportation planning functions of the PCMPO under common leadership. Joining the PPC’s and PCMPO’s leadership would be advantageous because transportation and land use planning do not exist independently but have a relationship in which each influences the other, and land use patterns are a critical factor in determining whether multimodal

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<sup>19</sup> After the 2000 census, The Palm Beach, Broward, and Miami-Dade MPOs considered consolidating into one regional MPO. However, these MPOs were not in favor of this because of a loss of municipal representation which currently emphasizes local concerns over regional concerns.

<sup>20</sup> 23 U.S.C. § 134(d)(5).

<sup>21</sup> 2060 Florida Transportation Plan, p. 22 (emphasis added), available at: <http://www.2060ftp.org/images/uploads/home/2060FTPPlanbook7%2004152011.pdf>, last visited January 9, 2012.

transportation, particularly transit, is functional and effective. This is especially true in Pinellas County because existing plans<sup>22</sup> already call for increased coordination of the land use and transportation planning activities.

The bill also mandates that the Countywide Planning Agency adopt a new countywide plan that is to be a broadly defined and policy-based plan with fewer land use categories than the current plan. Until the new countywide plan is adopted, the current plan remains in effect. The new plan must be adopted by a majority of all council members. This standard is more stringent than general law, but nevertheless consistent, as s. 163.3184(11)(a), F.S., requires that adoption of comprehensive plans “shall be by affirmative vote of not less than a majority of the members of the governing board present at the hearing.” The bill also requires that municipalities and unincorporated Pinellas County must review their comprehensive plans for consistency with the new countywide plan either simultaneously with the next scheduled amendment submitted after January 1, 2016, or within 3 years after the adoption of the new countywide plan.

Lastly, the bill requires that PPC must have an independent audit performed every year. The current charter only requires an independent audit to be performed if the auditor general fails to complete one.

This bill does not take effect until either the act becomes law or the board of the PCMPO is expanded to 13 members, whichever is later. Since the reapportionment of the PCMPO membership has not yet been completed (the current PCMPO board was concerned about expansion without knowing if this bill will pass), the governor will have to approve of this plan before the bill can take effect.

#### B. SECTION DIRECTORY:

Section 1: Provides that the reenactment of the Pinellas Planning Council’s charter is not a grant of additional authority and that all obligations undertaken by the council are unaffected by the charter’s reenactment.

Section 2: Amends, codifies, reenacts, and repeals the provisions of the PPC’s special acts.

Section 3: Amends and codifies the following sections of the PPC’s charter:

- Creates the PPC and amends the charter to require that the PPC council have common membership and function as a single unified board with the PCMPO.
- Provides the purpose of the PPC and provides new language stating the value of considering land use and transportation planning issues concurrently and in an integrated manner.
- Codifies the PPC’s definition section and creates new definitions for “countywide plan,” “countywide plan map,” “countywide plan strategies,” countywide planning authority,” “countywide rules,” and “existing countywide plan.”
- Amends the membership requirements of the PPC.
- Codifies and amends the provision relating to the requirements for officers, meetings, records, quorum and expenses.
- Codifies and amends the provision relating to the powers and duties of the PPC.
- Codifies provision relating to the staff and committee requirements of the PPC.
- Specifies the PPC’s responsibilities to create a budget and have annual audits and reports compiled. It also requires that the PPC have an annual independent audit performed, to be paid for by the PPC.
- Codifies reference to section 2.04 of the Pinellas County Charter, that the Board of County Commissioners is vested with countywide planning authority.
- Requires the repeal of the countywide plan and the adoption of a new, broadly defined, and policy-based countywide plan. Until the adoption of the revised countywide plan, the current countywide plan remains in effect.
- Codifies the public hearing and notice requirements for the PPC.
- Specifies a substantially affected person, the council, or the local government that initiated a plan amendment may seek a hearing under chapter 120, F.S., the Administrative Procedure Act (APA), but such hearings are limited to amendments to the countywide map. Other than this type of proceeding, neither the council nor the countywide planning authority are subject to the APA.
- Codifies the severability clause.

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<sup>22</sup> There are two plans calling for the increased coordination between land use planning and transportation planning: (1) The Updated Countywide Plan for Pinellas County; and (2) Pinellas by Design: An Economic Development and Redevelopment for the Pinellas Community.

- Codifies provision that all comprehensive plans must comply with part II of Chapter 163.

Section 4: Repeals all past special acts relating to the PPC.

Section 5: Provides an effective date of either upon becoming law or upon final approval of the PCMPO's reapportionment plan (increasing the PCMPO's membership from 11 to 13).

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? November 4, 2011

WHERE? Gulf Coast Business Review

B. REFERENDUM(S) REQUIRED? Yes  No

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

### Drafting Issues

None.

### Comments

The Florida Department of Transportation had two concerns:

First, after the US Census releases the revised urbanized areas this spring, the designation, planning boundaries, and voting membership of MPOs will be reviewed and may need to be adjusted (e.g., if the MPO agrees to merge with an adjacent MPO or include representatives from adjacent MPOs as nonvoting members to increase coordination). FDOT finds it premature to make changes to the Pinellas County MPO voting membership at this time, as the voting membership will have to be reviewed again based on the urbanized area data.

Second, pursuant to s. 339.175(3), F.S., the Governor must approve changes to the voting membership of MPOs and thus the reapportionment plan will need to be approved by the Governor to take effect. Deferring action on approval of the reapportionment plan until after the US Bureau of Census releases the urbanized area data would provide the Governor with adequate time and information to make a reasoned and sound decision on the voting membership change to the Pinellas County MPO.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2011, the Community & Military Affairs Subcommittee heard the bill, adopted three amendments, and reported the bill favorably as a committee substitute. Two amendments were technical, correcting the name of a state agency. The other amendment clarified the timetable that local governments have to perform a consistency review with the new countywide plan. The staff analysis was updated to reflect the committee substitute.