CS/HB 1375 — Affordable Housing

by Economic Expansion and Infrastructure Council and Rep. M. Davis and others (CS/CS/CS/SB 780 by Transportation and Economic Development Appropriations Committee; Finance and Tax Committee; Community Affairs Committee; and Senators Garcia and Crist)

Comprehensive plans; plan elements

The bill clarifies that the housing element contained in the local comprehensive plan must identify adequate sites for affordable workforce housing. By July 1, 2008, each county that is not designated as an area of critical state concern, and for which the gap between the buying power of a family of four and the median county home sales prices exceeds $170,000, must adopt a plan to ensure affordable workforce housing, defined as housing that is affordable to natural persons or families whose total household income does not exceed 140 percent of the area median income, adjusted to household size. The county's failure to adopt an affordable workforce housing plan will result in the county being ineligible to receive any state housing assistance grants until the plan is adopted.

Development of Regional Impact

This bill provides a transportation concurrency exemption for certain affordable housing units in close proximity to employment centers. Specifically, the bill authorizes a local government and a developer of affordable workforce housing units in a project subject to the substantial deviation requirements governing a change in a development of regional impact, or subject to the statutory statewide guidelines and standards to determine review as a development of regional impact, to identify an employment center or centers located within 5 miles from the nearest point of the development of regional impact to the nearest point of the employment center. If at least half of the units are occupied by an employee or employees of an identified employment center or centers, all the affordable workforce housing units are exempt from transportation concurrency requirements, and the local government may not reduce any transportation trip-generation entitlements of an approved development-of-regional-impact development order. The employment center must employ at least 25 or more full-time employees.

The bill provides that all phase, buildout, and expiration dates for projects that are developments-of-regional-impact and under active construction on July 1, 2007, are extended for three years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further review, and must not be considered when determining if a subsequent extension is a substantial deviation requiring review as a development of regional impact.

The bill also creates an exemption from review as a substantial deviation for changes that permit the sale of an affordable housing unit to a person who earns less than 120 percent of the area median income, if a developer actively markets the unit for a minimum period of six months and is unable to close a sale to a qualified buyer in a lower income qualified class. A certificate of occupancy must have been issued for the unit, and the unit must be sold at a purchase price that

is not greater than the purchase price at which the unit was originally marketed to a lower income qualified class. The new exemption may not be applied to residential units already exempt under s. 380.06(19)(b)7. and (i), and expires on July 1, 2009.

The bill amends statewide guidelines and standards for determining when certain developments are required to undergo development of regional impact review to remove a limitation restricting hotel or motel development accommodating 750 or more units, in counties with a population of 500,000 or more, to geographic areas specifically designated as highly suitable for increased threshold intensity in the approval of local comprehensive plans and the strategic regional policy plan. Hotel and motel development may be permitted in other locations but will still be subject to development of regional impact review if the number of units exceeds 750 or more.

Comprehensive plan amendments

The bill allows any local government that identifies within a comprehensive plan the types of housing development and conditions for which it will consider plan amendments which are consistent with the local housing incentive strategies required for participation in the State Housing Initiatives Partnership Program, to expedite consideration of those plan amendments. Requirements for consideration of the amendment are provided and the local government is authorized to hold only one public hearing which shall also be the plan amendment adoption hearing. Local government plan amendments which are consistent with the local housing incentive strategies required under s. 420.9076, F.S., are not subject to the twice per year limitation on the frequency of plan amendments required under s. 163.3187(1), F.S.

Evaluation and appraisal of the comprehensive plan

The bill allows the appropriate local government to adopt a plan amendment in order to integrate a port comprehensive master plan with the coastal management element of the local comprehensive plan, notwithstanding the prohibition on the adoption of plan amendments until the evaluation and appraisal report update amendments have been adopted and transmitted to DCA. The port comprehensive master plan or the proposed plan amendment cannot have caused or contributed to the failure of the local government to comply with the requirements of the evaluation and appraisal report.

Affordable Housing Tax Deferral Program

The bill creates an affordable housing tax deferral program in ss. 193.307 - 197.3079, F.S., by authorizing a board of county commissioners or the governing authority of a municipality to adopt an ordinance to allow for the deferral of ad valorem taxes and non-ad valorem assessments if the owners of the property are engaging in the operation, rehabilitation, or renovation of affordable rental housing property. The ordinance must specify the percentage or amount of the deferral and the type and location of the affordable housing rental property, and the deferral is applicable only to taxes levied by the unit of government granting the deferral. Deferrals may not be granted for taxes and assessments levied for the payment of bonds or for taxes authorized by a vote of the electors, and any deferral granted remains in effect for the period for which it is

granted regardless of any change in the authority of the county or municipality to grant the deferral.

The use of the property as affordable housing must be maintained over the deferral period or the total amount of deferred assessments, taxes and interest becomes due and payable on November 1 of the year in which the use of the property was changed. The bill establishes conditions under which a deferral may not be granted; establishes notice requirements; restricts the total amount of deferred taxes and assessments, together with interest, to not more than 85 percent of the assessed value of the property; and provides that deferred assessments and interest constitute a prior lien on the affordable rental housing property. An application process and an appeals process are created, and penalties are provided for persons who willfully file incorrect information relating to a deferral.

State Lands

The bill requires that by January 1, 2008, and for a consideration of one dollar, the Board of Trustees of the Internal Improvement Trust Fund must convey to Miami-Dade County fee simple title to the property on which the Miami-Dade County State Attorney's office is located, the E.R. Graham building on NW 12th Avenue. The deed conveying title to Miami-Dade County must contain restrictions limiting the use of the property for the purposes of housing the Miami-Dade County State Attorney, and to provide workforce housing. Employees of the Miami-Dade County State Attorney and Public Defender who meet the income qualifications for and who apply for affordable workforce housing shall be given preference over other qualified applicants. The Miami-Dade County Property Appraiser assessed the value of the land being conveyed at a total of $891,891, and the value of the building at $5.1 million, in each of the 2005 and 2006 tax years.

Florida Housing Finance Corporation

The bill makes several revisions and clarifications relating to the duties and responsibilities of the Florida Housing Finance Corporation (corporation.) The corporation is deemed to be a state agency for purposes of the state allocation pool, can provide notice of internal review committee meetings by publication on an Internet website, and is not governed by the provisions of ch. 617, F.S. relating to corporations not for profit, but is governed by the requirements of ch. 420, part V, F.S. Outdated language relating to the authority of the corporation to enter into employee lease agreements with the Department of Management Services or the Department of Community Affairs is deleted, as is outdated language relating to the transfer of assets from the Florida Housing Finance Agency to the corporation in 1998.

As a condition of financing an affordable housing multifamily rental project, the corporation may require that an agreement be recorded in the official public records of the county in which the real property for the project is located. The agreement must require that the project be used for affordable housing for persons that meet specific income criteria. The recorded agreement is a state land use regulation limiting the highest and best use of the property for purposes of determining just value under s. 193.011(2), F.S.

The corporation is authorized to forgive a share of a loan to a nonprofit organization, if the loan is made from funds set aside for sponsors of housing for the elderly to make building preservation, health or sanitation repairs or improvements, or life-safety or security-related repairs or improvements. The nonprofit organization must be a sponsor of an affordable housing project for the elderly, and the project must have provided affordable housing to the elderly for 15 years or more. The share of the loan to be forgiven must be attributable to the units in the project that are reserved for extremely-low-income elderly tenants.

Community Workforce Housing Innovation Pilot Program (CWHIP)

The bill provides the corporation with rulemaking authority to create a loan application process for the CWHIP program. The application process must include selection criteria, an application review process, and a funding process. The corporation must also establish an application review committee that may include up to three private citizens representing the areas of housing or real estate development, banking, community planning, or other areas related to the development or financing of workforce and affordable housing.

The application selection criteria and review process must include a way for errors in the application or in responses to issues raised during the review process to be cured so long as no substantial change is made to the project. The review committee is authorized to approve or reject loan applications or responses due to insufficiency of information provided, and must make recommendations on program participation and funding to the corporation's board of directors. The board of directors must approve or reject the review committee's recommended participants, determine the tentative loan amount to be made available to each application selected for funding, and rank all of the approved applications. After all applications are ranked, the board of directors selects the program participants and determines the maximum loan amount for each participant.

The bill authorizes local governments to use State Housing Initiative Partnership (SHIP) program funds for the CWHIP program to assist persons or families whose total annual income does not exceed 140 percent of the area median income, adjusted for household size. In areas of critical state concern for which the Legislature has declared its intent to provide affordable housing, and in areas that were designated as areas of critical state concern for at least 20 years prior to the removal of the designation, local governments may use SHIP funds for the CWHIP program to assist persons or families whose total annual income does not exceed 150 percent of the area median income, adjusted for household size.

The bill requires that CWHIP funding be targeted to innovative projects where the difference between the area median income and the median sales price for a single-family home, and where population growth as a percentage rate of increase are the greatest. Projects must be funded in as many counties and regions of the state as is practicable, and priority funding consideration must be given to specified projects. Clarifications are made to the expedited plan amendment process for CWHIP projects and the adoption of CWHIP plan amendments is not subject to the twice per year limitation on the frequency of plan amendments under s. 163.3187(1), F.S. An expedited process for approvals of development orders or development permits for CWHIP projects is required.

Local Affordable Housing Advisory Committees

The bill provides that membership in local affordable housing advisory committee is increased from 9 to 11 members by adding a citizen who represents employers within the jurisdiction, and a citizen who represents essential service personnel as defined in a local housing assistance plan. Local governments that receive a minimum allocation under the SHIP program may have an advisory committee with fewer members.

The bill authorizes the advisory committees to recommend comprehensive plan changes to their local governments. The committees must review the established policies and procedures, ordinances, land development regulations, and the adopted local comprehensive plan amendments every three years, and must submit a report to their local governments recommending and evaluating the implementation of affordable housing incentives. The committees may perform additional responsibilities related to affordable housing at the request of their local governments, including creating best management practices for the development of affordable housing in the community. Local housing and planning departments are directed to cooperatively staff the advisory committees.

Public Housing Authorities Self-Insurance Funds

The bill authorizes any two or more public housing authorities in the state to create a self-insurance fund for the purpose of self-insuring real or personal property against loss or damage from any hazard or cause, and against any loss consequential to such loss or damage, if the state requirements for local government self-insurance funds established in s. 624.4622, F.S., are met. Public housing authorities who are members of a self-insurance fund created under this provision are exempt from the assessments imposed under the insurance risk apportionment plan, the Florida Insurance Guaranty Association Act, and the Florida Hurricane Catastrophe Trust Fund.

Miscellaneous Provisions

The bill revises the corporation's annual reporting requirements to include a report on CWHIP addressing the success of the program in meeting the housing needs of the eligible areas. Also, all notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or that are given to secure the repayment of, loans issued in connection with the financing of the corporation's projects, are exempt from documentary stamp and intangible taxes. The cap on predevelopment loans made by the corporation is raised from $500,000 to $750,000, or the lesser of the development and acquisition costs for the project.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 39-0; House 119-0

CS/HB 7203 — Growth Management

by Economic Expansion and Infrastructure Council and Rep. Cannon and others (CS/SB 800 by Community Affairs Committee and Senator Garcia)

The bill makes a number of changes relating to growth management, including the areas of financial feasibility, transportation concurrency, school concurrency, port master plans, developments of regional impact (DRIs), transportation concurrency backlog areas, tax increment financing, and an alternative [to] state review process pilot program.

Comprehensive Plans and Financial Feasibility

The definition of "financial feasibility" is revised to provide that a local comprehensive plan is financially feasible for purposes of transportation and school concurrency if the adopted level-of-service standards are achieved and maintained by the end of the appropriate planning period. The deadline for local governments to adopt and transmit an update of the capital improvements schedule which meets financial feasibility requirements is extended by one year, to December 1, 2008. Also, penalties for failing to update the capital improvements schedule do not take effect until December 1, 2008.

This bill also provides that, at a local government's discretion and notwithstanding s. 163.3180, F.S., a comprehensive plan is deemed financially feasible with respect to transportation facilities, as revised by a plan amendment, if the amendment is supported by a DRI development order condition or binding agreement that satisfies the requirements of s. 163.3180(12), F.S. Similarly, the comprehensive plan will be deemed financially feasible for transportation concurrency if a plan amendment is supported by a binding agreement that is consistent with s. 163.3180(16), F.S., and the property subject to the amendment is located in an area designated for certain types of urban development and the binding agreement is based on the maximum amount of development allowed under the map amendment.

Transportation Concurrency

Under this bill, local governments are authorized to waive transportation concurrency in an urban service area that has been designated as a transportation concurrency exception area (TCEA) and includes lands appropriate for compact urban development. The land included in the TCEA may not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the comprehensive plan for a 10-year period. The TCEA must also be served or planned to be served with public facilities.

The roles of the Department of Community Affairs (DCA or the state land planning agency) and the Florida Department of Transportation (FDOT) are revised, relating to the assessment and mitigation of impacts to Strategic Intermodal System (SIS) facilities. The proportionate-share-contribution language for multiuse DRIs in s. 163.3180(12), F.S., is broadened to include DRIs, Florida Quality Developments, and certain optional sector plans. Proportionate fair-share mitigation under s. 163.3180(16), F.S., which applies to sub-DRIs may be used for "pipelining" or multiple transportation improvements reasonably related to the development and those improvements may address one or more modes of travel. This bill expressly limits proportionate

share mitigation and proportionate fair-share mitigation to the impacts a development has on a transportation system and this does not include reducing or eliminating backlogs.

School Concurrency

The bill allows a development to move forward even if there is inadequate school capacity as long as "accelerated facilities" are included in years 4 or later of the capital improvements schedule, or will be included in the next update of the capital improvements schedule, or there is a binding agreement with the school district to construct these facilities. The cost of the accelerated facility must be equal to or greater than the development's proportionate share. The developer shall receive impact fee credits usable within the attendance zone where the accelerated facility is constructed or in a contiguous attendance zone once the developer conveys the school district to the school district.

Plan Amendments to Integrate Port Master Plans

The bill allows the appropriate local government to adopt a plan amendment in order to integrate a port comprehensive master plan with the coastal management element of the local comprehensive plan, notwithstanding the prohibition on the adoption of plan amendments until the evaluation and appraisal report update amendments have been adopted and transmitted to DCA. The port comprehensive master plan or the proposed plan amendment cannot have caused or contributed to the failure of the local government to comply with the requirements of the evaluation and appraisal report.

Developments of Regional Impact (DRI)

The bill provides that all phase, buildout, and expiration dates for DRI projects that are under active construction on July 1, 2007, are extended for three years regardless of any prior extension. The 3-year extension is not a substantial deviation, is not subject to further review, and must not be considered when determining if a subsequent extension is a substantial deviation requiring review as a development of regional impact.

Alternative [to] State Review Process Pilot Program

The bill designates Pinellas and Broward Counties, the municipalities within those two counties, and the Cities of Jacksonville, Miami, Tampa, and Hialeah as pilot communities. Municipalities within the pilot counties may elect, by a super majority vote, not to participate in the pilot program. These pilot communities will follow an alternate, expedited process for plan amendments that provides for limited state agency review. The pilot communities will 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 shall transmit 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. The bill explicitly states the Legislature strongly encourages DCA to focus any challenge on issues of regional or statewide importance. State agencies are prohibited from promulgating rules to implement the pilot program.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is required to submit a report to the Legislature and the Governor by December 1, 2008, regarding reduced state oversight of local comprehensive planning in urban areas. The report and its recommendations must address specific, identified issues. OPPAGA shall consult with specified entities while preparing the report and recommendations. Four full-time positions are established in the Division of Community Planning in DCA to provide technical assistance and advice to state and local governments regarding growth-related issues and compliance with ch. 163, F.S.

Transportation Concurrency Backlog Areas

This bill allows local governments to create, through an interlocal agreement, a transportation concurrency backlog area for the purpose of using tax increment financing to fund the construction and maintenance of transportation improvements to resolve backlog and deficiency issues. The governing board of the county or municipality would comprise the authority's membership and develop and implement a plan to eliminate all backlogs within its jurisdiction. The plan must identify all roads designated as failing to meet concurrency requirements and include a schedule for financing and construction to eliminate the backlog within 10 years of plan adoption. The plan is not subject to the twice-per-year limitation on comprehensive plan amendments.

To fund the plan's implementation, each authority must collect and earmark, in a trust fund, tax increment funds equal to 25 percent of the difference between the ad valorem taxes collected in a given year and the ad valorem taxes which would have been collected using the same rate in effect when the authority is created. Upon adoption of the transportation concurrency backlog plan, all backlogs within the jurisdiction are deemed financially feasible for purposes of calculating transportation concurrency. The authority is dissolved upon completion of all backlogs.

Tax Increment Financing

The bill authorizes 2 or more counties, or at least one county and one or more municipalities, to enter into an interlocal agreement establishing a tax increment area that will generate revenue for the purchase of conservation lands. It also allows a water management district in which the conservation lands are located to enter into the interlocal agreement if the district contributes ad valorem revenues for the purchase.

The bill provides minimum requirements for the interlocal agreement. DCA is required to review the boundary of a tax increment area to determine whether the proposed purchase of conservation lands will benefit property owners within the boundary and serve a public purpose. Before any of the identified conservation lands are purchased, the Department of Environmental Protection must determine whether the purchase is sufficient to provide additional recreational and ecotourism opportunities for residents in the tax increment area.

The tax increment shall be determined annually, but may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S. Tax increment revenues are to be paid into a separate reserve account. These tax increment revenues may be spent to purchase the identified conservation lands only if all parties to the interlocal agreement approve the purchase price. There is an interest penalty for failure to pay the tax increment revenues into the separate reserve account as required by the interlocal agreement. The tax increment revenues may be bonded, but revenue bonds are payable solely out of revenues pledged to and deposited in the separate reserve account.

Miscellaneous

The bill extends the duration of certain development agreements between a local government and a developer from 10 to 20 years to coincide with longer-term concurrency management systems that, under existing law, range from 10-15 years.

This bill provides that conservation easements shall survive the issuance of a tax deed.

Also, the bill provides DCA with rulemaking authority to implement a provision in the General Appropriations Act relating to the distribution of Local Update Census Addresses (LUCA) technical assistance grants.

This bill includes airport passenger terminals and concourses, air cargo facilities, and hangars for the maintenance or storage of aircraft in the list of public transit facilities that are exempt from concurrency requirements.

Finally, this bill names the Community Workforce Housing Innovation Pilot Program created under s. 420.5095, F.S., after Representative Mike Davis.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 34-5; House 118-0

CS/CS/SB 1026 — Ad Valorem Tax/Disabled Veterans

by Finance and Tax Committee; Community Affairs Committee; and Senators Haridopolos and Fasano

The bill codifies an amendment to s. 6, Art. VII of the State Constitution, that was approved by the voters in the November 2006 general election. The amendment and the bill provide that each partially or totally permanently disabled veteran who is age 65 or older shall receive an ad

valorem discount on homestead property that the veteran owns and resides in if the veteran: has a combat-related disability, was a resident of the state of Florida when entering military service, and was honorably discharged from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs.

To qualify for the discount, a veteran must, by March 1, submit to the county property appraiser: proof of residency at the time of entering military service, an official letter from the United States Department of Veterans Affairs that states the percentage of the veteran's disability and evidence that the disability is combat-related, a copy of the veteran's honorable discharge, and proof of age as of January 1 for the year in which the discount will apply. A veteran who is otherwise entitled to the discount, but who misses the March 1 deadline, may use the same procedure as someone who misses the deadline to apply for other ad valorem exemptions which involves petitioning the value adjustment board to grant the discount. The property appraiser must notify the applicant in writing of the reasons for denying an application for the discount by July 1 of the year for which the application was filed. The veteran may reapply in a subsequent year using the same procedure. All notifications from the property appraiser must specify the right to appeal to the value adjustment board and procedures to follow for such an appeal.
The bill provides procedures for property appraisers to apply the discount. It also allows a county to waive the requirement that a veteran reapply annually for the discount. If reapplication is waived, the veteran is subject to certain penalties for failing to notify the property appraiser of a change in eligibility for the discount.

If approved by the Governor, these provisions take effect upon becoming law and apply retroactively to December 7, 2006.
Vote: Senate 40-0; House 115-0

CS/SB 1178 — Local Business Tax Receipts

by Community Affairs Committee and Senators Rich and Lynn

The bill revises the date for beginning the annual sale of local business tax receipts from August 1 to July 1 of each year. It also provides a window for municipalities that adopted a local business tax ordinance after October 1, 1995, to reclassify businesses, professions, and occupations, and to establish new rate structures, before October 1, 2008, if certain conditions are met. This bill also specifically authorizes municipalities and counties to decrease or eliminate a local business tax.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 38-0; House 118-0

HB 99 — Charitable Public Solicitations

by Rep. Hooper and others (CS/SB 1946 by Transportation Committee and Senators Gaetz, Fasano, and Storms)

This bill, the Iris Roberts Act, exempts organizations qualified under s. 501(c)(3) of the Internal Revenue Code and registered under ch. 496, F.S., as well as those persons or organizations acting on their behalf, from local government permitting requirements for solicitation along roadways not maintained by the state, provided certain conditions and requirements are met. Specifically, the bill requires sponsoring entities to provide the local government with the following information:

- The names and addresses of those conducting the solicitation and of those receiving the contributions no fewer than 14 days prior to the proposed solicitation;
- A safety plan for persons participating in the solicitation and the motoring public;
- A detailed description of the location and hours of the solicitation activities;
- Proof of a commercial general liability insurance policy against bodily injury and property damage arising from the solicitation activities, with a limit of no less than $1 million per occurrence; and,
- Proof that the organization is either registered with the Department of Agriculture and Consumer Services, pursuant to s. 496.405, F.S., or is exempt from registration.

The bill also establishes a number of operational requirements governing charitable solicitation activities along non-state-maintained roadways. Persons participating in the solicitation activities must be at least 18 years of age and possess picture identification. A local government may stop solicitation activities if any of the conditions or requirements discussed above are not met.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 40-0; House 112-0

CS/CS/SB 2162 — Local Government Funding

by Judiciary Committee; Community Affairs Committee; and Senator Villalobos

The bill authorizes the continued collection of a $15 surcharge assessed by certain local governments for traffic infractions and violations which is scheduled for repeal on September 30, 2007. The bill authorizes the assessment of up to $3 in court costs to persons adjudicated delinquent in circuit or county court for committing a delinquent act, and specifies that the assessment must be used to operate and administer Teen Courts. The authorization to assess up to $65 in court costs is expanded to include persons adjudicated delinquent for a delinquent act under the laws of the state. Finally, the bill extends the assessment of a surcharge in certain counties of up to $85 to persons adjudicated delinquent for a delinquent act under the laws of the state, and authorizes the continued collection of the surcharge which is scheduled for repeal on September 30, 2007.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 37-0; House 118-0

SB 2224 — Local Governments/Authorized Investments

by Senators Rich, Deutch, King, Atwater, and Aronberg

This bill authorizes local governments to invest surplus public funds in rated or unrated bonds, notes, or instruments backed by the full faith and credit of the government of Israel.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 38-0; House 116-0

CS/HB 1491 — Community Development Districts

by Economic Expansion and Infrastructure Council and Rep. Attkisson (CS/SB 2700 by Finance and Tax Committee and Senator Haridopolos)

This bill amends a number of provisions governing community development districts (CDDs or districts) in order to:

- Allow CDDs to be multi-county.
- Revise the definitions of the terms "cost", "water management and control facilities", and "water system."
- Require a petitioner to pay a filing fee and submit a copy of the petition to a county only if the CDD will be located in an unincorporated area; the filing fee and a copy of the petition goes to the municipality if the CDD will be located within an incorporated area.
- Require a CDD located within multiple local governments' jurisdictions to pay a $15,000 filing fee to each jurisdiction.
- Require a CDD located across county boundaries to maintain records, hold meetings and hearings, and publish notices only in the county where the majority of the district's acreage lies.
- Allow public hearings on a petition for a new CDD only in counties and municipalities in which the proposed CDD will be located and municipalities that are contiguous to the proposed boundaries of the CDD.
- Limit those issues that may be addressed in an ordinance establishing a CDD to those matters that would be contained in a rule adopted by the Florida Land and Water Adjudicatory Commission (FLWAC) to establish a CDD, except for certain optional powers consented to by the commission.
- Require a petition to establish a CDD that will be located within 2 municipalities to be filed with FLWAC regardless of the size of the CDD.

- Require that platted lots be counted individually, with each lot rounded up to the nearest whole acre, for purposes of determining the number of voting units held by a landowner or a landowner's proxy in a CDD.
- Require at least 2 weeks notice of the qualifying period, as established by the supervisor of elections, for the election of board members.
- Provide a process to address a situation where there is no qualified elector for a seat on the board of a CDD.
- Eliminate a conflict of interest, effective October 1, 2007, for a board member, district manager, or other employee of the district who is employed by an entity affiliated with a landowner.
- Move the CDD budget process up one month, to June 15, and require that the budget reflect not only taxes and assessments, but also other revenues to the district.
- Require a CDD to record its disclosure documents and amendments to those documents in the property records of each county in which the district is located.
- Expand the special powers of a CDD to allow for the financing or construction of: districts roads and improvements to roads owned by or which will be conveyed to a local general-purpose government, or the state or federal government; street lights, alleys, landscaping and hardscaping (i.e., entry feature); the undergrounding of electric utility lines; and, any other project, facility, or service required by a governmental authority with jurisdiction in the district for the issuance of a development approval, zoning condition, or a permit within the CDD.
- Authorize a CDD to request the underground placement of utility lines by the local retail electric utility provider in accordance with the utility's tariff on file with the Public Service Commission.
- Authorize a CDD with the consent of the local government to construct and maintain site improvements related to school buildings which will be leased, sold, or donated to the school district.
- Allow a CDD to enforce deed restrictions pertaining to property outside the district pursuant to an interlocal agreement under ch. 163, F.S.
- Clarify that before a CDD board may adopt rules regarding the enforcement of certain deed restrictions, the majority of the board for residential districts must have been elected by qualified electors.
- Provide that non-ad valorem assessments levied to pay interest on bond anticipation notes are not assessments for purposes of the 30-year limitation on district assessments in s. 190.022, F.S.
- Allow the notice of the proposed amount of special assessments and maintenance special assessments, including the date and time of the hearing, prepared and delivered by the property appraiser to be used in lieu of the notice provisions in s. 197.3632(4)(b), F.S.

- Provide that special assessments authorized under ch. 170, F.S., relating to local municipal improvements, shall constitute a lien against real property which is coequal with ad valorem taxes until paid.
- Allow a CDD to use ch. 170, F.S., to foreclose a lien in favor of the district.
- Authorize a CDD board to use competitive solicitation, including a request for proposals or qualifications, when purchasing goods, supplies, materials, or construction services in certain instances and, if no response is received, to proceed with the purchase in the manner the board deems in the best interest of the district.
- Require a CDD wholly located in an unincorporated area and which meets the population standards for incorporation, as determined by the Department of Community Affairs, and satisfies the other requirements for incorporation in s. 165.061, F.S., to hold a referendum at a general election on whether to incorporate.

If approved by the Governor, these provisions take effect July 1, 2007, except as otherwise expressly provided.
Vote: Senate 39-1; House 117-0

CS/CS/SB 2836 — Florida Building Commission

by Transportation and Economic Development Appropriations Committee; Community Affairs Committee; and Senator Constantine

Swimming Pools

The committee substitute for the committee substitute requires the Florida Building Commission (commission) to review requirements in the National Electric Code relating to bonding and grounding systems for swimming pools, and authorizes the commission to adopt a rule providing for the use of an alternative method, and to integrate the alternative method into the 2007 edition of the Florida Building Code (code.) Until the rule is adopted, the use of a specified underground bonding conductor is deemed a permissible alternative to or equal to compliance with the National Electric Code (2005), NFPA No. 70, adopted by reference within the code.

Gravel or stone roofing systems

The committee substitute for the committee substitute establishes that prior to eliminating gravel or stone roofing systems from the code, the commission must determine and document the following:

- If there is a scientific basis or reason for eliminating gravel or stone roofing systems;
- If eliminating gravel or stone roofing systems will unnecessarily restrict or eliminate business or consumer choices in roofing systems;
- If an alternative to gravel or stone roofing systems is available and equal in cost and durability, and

- In consultation with the Fish and Wildlife Conservation Commission, if eliminating gravel or stone roofing systems will affect the nesting habitat of any species of nesting birds.

The commission is authorized to adopt provisions to preserve gravel or stone roofing systems in future editions of the code, if necessary to address the determinations made with regard to eliminating the roofing systems.

Alternative building plans review and inspection

The committee substitute for the committee substitute provides the following definitions:

- "Audit" is defined as the process to confirm that building code inspection services have been performed by a private provider. The definition specifies that the term "audit" does not mean that the local building official is required to replicate an inspection service performed by a private provider.
- "Immediate threat to public safety and welfare" is defined as a building code violation that could result in death, serious bodily injury, or significant property damage if allowed to continue. The definition does not limit the authority of a local building official to issue a Notice of Corrective Action at any time during construction so long as the condition cited is shown to be in violation of the code or in violation of approved plans.
- "Stop-work order" is defined as the issuance of any written statement, directive, or order specifying the reason for the statement, directive, or order and specifying the conditions under which work may resume.

Written contracts for inspection services may be executed by the property owner's contractor upon written authorization by the property owner. Private providers may change the name of an authorized representative identified in a permit application without a revision to the permit, and a fee may not be charged for such change. Deficiency notices must be posted at a job site by a private provider or a private provider's authorized representative, or a building department official, when an item that does not conform to either the code or permitted documents is found. Re-inspections must be performed after corrections are made and prior to the concealment of the corrected item. Re-inspection fees or re-audit fees may not be charged by a local jurisdiction prior to a private provider's inspection or for any administrative matter not related to a code violation.

Building Code Compliance and Mitigation Program

The Department of Community Affairs (department) is directed to develop the Florida Building Code Compliance and Mitigation Program (program) to develop, coordinate, and maintain education and outreach to persons required to comply with the code, and to ensure consistency in complying with code requirements, including methods of mitigating storm-related damage. The program replaces the Building Education and Outreach Program.

The Building Education and Outreach Council is abolished, and services and materials under the new program will be provided by a private, non-profit provider under contract with the department. Contract terms and experience requirements are established for the private provider. The commission is directed to provide by rule for the accreditation of courses relating to the code and also is required to establish qualifications of accreditors and criteria for accreditation. The department is authorized to use funds from the contractor licensing application fees for the new program.

The sum of $1 million is appropriated from the department's Operating Trust Fund for FY 2007-2008 for the purpose of implementing and administering provisions relating to the Florida Building Code Compliance and Mitigation Program.

State Product Approval

The committee substitute for the committee substitute requires that the certification method for compliance for state product approval can only be used for products for which the code designates standardized testing. The commission is granted authority to adopt by rule a schedule of penalties to be imposed against approved product validators who validate product applications in violation of state requirements. Additional rulemaking authority is granted to the commission to identify standards equal to or more stringent than those specifically adopted within the code to allow the use of products that comply with equivalent standards within the state.

Firesafety inspection training requirements and certification

The committee substitute for the committee substitute provides that every firesafety inspection conducted under state or local firesafety requirements must be conducted by a person who is at least 18 years of age and certified as having met the inspection training requirements set by the State Fire Marshall. Florida residency requirements are repealed. Additional criteria under which the State Fire Marshall may deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector or a special state firesafety inspector are established.

Legislative intent regarding the inspection of exposed underground piping and attached appurtenances, and the conducting of firesafety inspections by qualified persons is provided. Certified contractors of fire sprinkler systems are authorized to obtain provisional permits with an endorsement for inspection, testing, and maintenance of water-based fire extinguishing systems for certain employees. Such employees must achieve specific certification standards within two years after receiving a provisional certification or cease performing inspections. After an initial provisional permit expires, a certified contractor must wait for two additional years before a new provisional permit can be issued to prevent the use of employees who never achieve the required certification level. Continuing education requirements for certified contractors are established. After July 1, 2008, the technical curriculum for certification is at the discretion of the State Fire Marshall and can be used to meet other continuing education requirements or requirements for maintaining certification.

Energy efficiency

The commission, in consultation with the Florida Energy Commission and other entities, is directed to review the Florida Energy Code to evaluate the cost-effectiveness analysis that serves as the basis for energy-efficiency levels for residential buildings. The commission must identify cost-effective means to improve energy efficiency in commercial buildings, compare the findings to the International Energy Conservation Code and the American Society of Heating, Air Conditioning, and Refrigeration Engineers Standards, and present a report to the Legislature no later than March 1, 2008. The report must include a new energy-efficiency standard that may be adopted for the construction of all new residential, commercial, and government buildings.

Miscellaneous provisions

The committee substitute for the committee substitute increases from 90 to 120 the number of days a newly employed person can be a plan examiner or building inspector without certification. The commission is authorized to approve certain amendments to the code more than once every three years, including amendments that address changes to federal or state laws, and must issue or cause to be issued a formal interpretation of the code upon written application by any substantially affected person, contractor, or designer, or any group representing a substantially affected person, contractor, or designer.

The commission is required to review modifications relating to existing warehouses when those modifications have been reviewed by the commission's technical advisory committee. The commission must take public comment on the modifications, including the necessity of the modification, how it may affect the health, safety, and welfare of Florida residents, and the continuing need for any Florida-specific requirement of the code which the modification seeks to repeal. The commission can adopt or modify the modification in response to the public comment received subject only to the rule adoption requirements of ch. 120, F.S.

If approved by the Governor, these provisions take effect upon becoming a law.
Vote: Senate 39-0; House 117-0

HB 7167 — Municipal Incorporation

by Government Efficiency and Accountability Council and Rep. Robaina (CS/SB 2848 by Community Affairs Committee and Senators Diaz de la Portilla and Garcia)

The bill (Chapter 2007-26, L.O.F.) prohibits a county from requiring any municipality formed after January 1, 2000, to pay a charge, assessment, tax, fee, or other consideration as a condition of municipal incorporation.

These provisions became law upon approval by the Governor on May 4, 2007, and take effect on July 1, 2007.
Vote: Senate 35-0; House 112-0

CS/HB 333 — Homestead Exemption Increase for Low Income Seniors

by Policy and Budget Council, Rep Lopez-Cantera and others (SB 1024 by Senators Haridopolos and Atwater)

This bill (Chapter 2007-4, L.O.F.) conforms s. 196.075, F.S., to the amendment to the State Constitution that was approved in the November 2006 election which authorizes the Legislature to allow a local government to increase the maximum amount of the additional homestead exemption for low income seniors from $25,000 to $50,000. The bill also allows a taxing authority that has adopted an additional homestead exemption for low income seniors for the 2007 tax year to increase the amount of the exemption up to the $50,000 limit for 2007 if a copy of the ordinance authorizing the increase is delivered to the property appraiser by June 1, 2007.

These provisions became law upon approval by the Governor on April 9, 2007, and apply retroactively to January 1, 2007.
Vote: Senate 39-0; House 117-0

CS/HB 1315 — Broward and Palm Beach Counties' Boundaries

by Government Efficiency and Accountability Council and Rep. Hasner and others (CS/SB 2752 by Governmental Operations Committee and Senator Ring)

The bill revises the boundary lines of Broward and Palm Beach Counties to transfer approximately 1,949 acres from Palm Beach County to Broward County. The bill also annexes approximately 470 acres of the 1,949 acres into the City of Parkland in Broward County. Land use and zoning designations for the 1,949 acres remain in effect until the entity with jurisdiction after the effective date of this bill makes a change. All development orders, permits, and licenses in existence on the effective date of this bill remain in effect and shall continue under the terms of their issuance notwithstanding the transfer of lands to Broward County.

Public roads and the associated rights-of-way within the 1,949 acres that are the subject of this bill are transferred to either Broward County or the City of Parkland. On the effective date of this bill, Broward County is responsible for and embodied with all powers in the State Constitution, Florida Statutes, and the Broward County Charter with respect to the 1,479 acres transferred from Palm Beach County. The City of Parkland is responsible for and embodied with all powers in ch. 166, F.S., and as otherwise provided by law, with respect to the 470 acres annexed by the city in this bill.

In addition, this bill provides a savings clause for contracts entered into prior to the effective date of the bill. It supersedes two special acts relating to the annexation of unincorporated property within Broward County. This bill provides for the payment or apportionment of public debt pursuant to an interlocal agreement executed by Broward and Palm Beach Counties before September 30, 2007. It also provides a severability clause.

Finally, the effective date of the bill is conditioned on the latter of the:

- Date of the issuance of a final order by the Department of Community Affairs finding a specified plan amendment to Palm Beach County's comprehensive plan to be in compliance with s. 163.3184, F.S.;
- Issuance of a final order by the Administration Commission finding the plan amendment in compliance with s. 163.3184, F.S.; or
- Abandonment by Palm Beach County of the road rights-of-way identified in the bill and expiration of any appeal of the abandonment, or issuance of a final order confirming abandonment which is issued by a court of competent jurisdiction if there is an appeal.

Effective date contingent on certain conditions.
Vote: Senate 39-0; House 113-0

CS/HB 1405 — Public Records/U.S. Department of the Interior/National Landmark

by Government Efficiency and Accountability Council and Rep. Bullard (CS/SB 2772 by Community Affairs Committee and Senator Bullard)

The committee substitute creates a public records exemption for information that identifies a donor or a prospective donor to a publicly owned house museum designated by the U.S. Department of the Interior as a National Historic Landmark, if the donor or prospective donor wishes to remain anonymous, and contains a required statement of public necessity. The exemption is subject to the Open Government Sunset Review Act under s. 199.15, F.S., and is repealed on October 2, 2012, unless reviewed and saved from repeal through reenactment by the Legislature.

If approved by the Governor, these provisions take effect July 1, 2007.
Vote: Senate 39-0; House 113-0