Growth Management Committee

Tuesday, March 28, 2006
1:00 PM – 4:00 PM
212 Knott Building

REVISED

Allan G. Bense
Speaker

Randy Johnson
Chair

Florida House of Representatives
Growth Management Committee

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Speaker

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Chair

AGENDA

GROWTH MANAGEMENT COMMITTEE
Tuesday, March 28, 2006
1:00 PM – 4:00 PM
212 Knott Building

I. Meeting Called to Order

II. Opening Remarks by Chairman

III. Consideration of the following bill(s):

HB 935 CS by Rep. Benson – Temporary Buildings
HB 7109 by Rep. Brummer/F&T Committee – Homestead Property Assessments

IV. Consideration of the following proposed committee bill:

PCB GM 06-02 – Growth Management
PCB GM 06-03– Growth Management

V. Meeting Adjourned

HB 935

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 CS Temporary Buildings
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Smith	Hamby
2) Growth Management Committee		Strickland	Grayson
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[1] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[2] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

HB 935 w/CS provides that modular buildings, manufactured buildings, and factory-built buildings that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month temporary permit.

[1] Section 553.73(4)(a), F.S., (2005).
[2] Section 553.415, F.S., (2005).

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government - This bill may restrict the ability of local governments to enforce safety requirements as applied to temporary buildings and reduces the number of repeated permits by increasing the time between inspections.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Statutes authorize the Florida Building Commission (Commission) to establish minimum standards for permitting, plan review and issuance of mandatory certificates of occupancy (administrative provisions), as well as technical standards for construction.[3] The Commission has adopted the Florida Building Code (Code), which generally applies to modular buildings and site built construction. The Code provides that buildings anticipated to be used for less then six months are entitled to different review and technical standards than permanent buildings (local building officials are authorized to extend that six month period). A different administrative standard applies to modular school buildings, which are statutorily authorized to be used for up to four years and still maintain their temporary status.[4] The National Flood Insurance Program provides some allowance for temporary buildings, which it defines using a 180 day time period, within flood-prone areas. Buildings in flood prone areas for longer periods of time require foundations sufficient to withstand pressure from flood waters.

Technically, the Code provides that "[t]emporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare."[5] [This section was adopted verbatim by the Commission from the International Building Code.]

The following "temporary" buildings are exempt from application of the Code:

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities shall apply to such mobile or modular structures.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.[6]

Effect of Proposed Changes

The bill provides that modular buildings[7], manufactured buildings[8], and factory-built buildings[9] that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such

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[3] *Supra* note 1.
[4] *Supra* note 2.
[5] Section 107.2, Florida Building Code, Building Volume (2004).
[6] Section 553.73(8), F.S., (2005).
[7] Section 558.002(7), F.S., (2005).
[8] Section 553.36(12), F.S., (2005).
[9] Section 212.02(7), F.S., (2005).

exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month temporary permit.

C. SECTION DIRECTORY:

Section 1. Adds subsection (12) to s. 553.37, F.S., that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code, but shall use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month temporary permit.

Section 2. Provides that the act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   There may be a minimal fiscal impact on local governments relating to permitting by increasing the time between inspections.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Decreased costs of installation and lack of repeated permitting will result in savings to the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Community Affairs (Department) proposed the following amendments to the original filed bill:

- Shortened threshold, 4 years is a long period of time to call a building temporary in general application.
- Limit the application of provision to areas outside of those governed by the flood-resistant construction requirements of the National Flood Insurance Program.
- Provision for design for anticipated loads caused by factors in addition to wind.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted one strike-all amendment on March 8, 2006. The amendment provides that modular buildings, manufactured buildings, and factory-built buildings that do not exceed 24 months occupancy shall be considered "temporary" and shall be exempt from the soil and foundation requirements for permanent buildings contained in the Florida Building Code. Such exempt buildings are required to use a temporary foundation design that meets or exceeds the wind load capacity of the building and the soil bearing capacity of the building location. The bill allows for one additional 24 month temporary permit. The bill, as amended, was reported favorably with committee substitute.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to temporary buildings; amending s. 553.37, F.S.; considering certain buildings as temporary; extending the certificate of occupancy for a temporary building for a limited time; providing foundation requirements for such buildings; exempting such buildings from soil and foundation requirements of the Florida Building Code; providing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (12) is added to section 553.37, Florida Statutes, to read:

553.37 Rules; inspections; and insignia.--

(12) Any modular building, manufactured building, or factory-built building, regardless of the occupancy type, that meets the requirements of this part and does not exceed a maximum of 24 months' occupancy from the date of the certificate

24 of occupancy is considered temporary. The certificate of
25 occupancy for a temporary building may be extended for an
26 additional 24 months. Such temporary building shall use a
27 temporary foundation design that meets or exceeds the wind load
28 capacity of the building and the soil bearing capacity of the
29 building location and shall be exempt from the soil and
30 foundation requirements of the Florida Building Code. If the
31 occupancy length of such building is greater than 48 months, or
32 if the building is located in a flood zone, the building is
33 considered a permanent structure and shall comply with all
34 requirements of the Florida Building Code, unless otherwise
35 exempted.
36 Section 2. This act shall take effect upon becoming a law.

HB 7109

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7109 PCB FT 06-04 Property Taxation
SPONSOR(S): Finance & Tax Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1430

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Finance & Tax Committee	9 Y, 0 N	Monroe	Diez-Arguelles
1) Growth Management Committee		Strickland	Grayson
2) Fiscal Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Current law limits the increase in assessed value of homesteaded property. Changes, additions, and improvements to such property are assessed at full just value. However, if a homestead property is destroyed by misfortune or calamity, the property may be repaired or replaced without being assessed at full just value, provided that the just value of property as repaired or replaced does not exceed 125 percent of the just value before the destruction.

The bill amends s. 193.155(4), F.S., to provide that changes, additions, or improvements to damaged or destroyed homestead property shall not increase the assessed value if:

- the square footage of a homestead is increased by 10 percent or less, or
- the square footage of the house as rebuilt or repaired does not exceed 1500 square feet.

The bill also amends s. 196.031, F.S., to specifically provide that under the following conditions damaged or destroyed homestead property shall retain its homestead status, when the property is uninhabitable on January 1:

- the property otherwise qualifies as homestead property,
- the owner notifies the property appraiser that he or she intends to repair or rebuild the property and make it his or her primary residence once it is rebuilt, and
- the owner does not claim a homestead exemption on any other property or otherwise violate the provisions of s. 196.031, F.S.

The Revenue Estimating Conference has estimated that this bill will reduce local revenues by $3.8 million on an annual basis, assuming no change in millage rates. The bill will have no effect upon General Revenue.

This bill will take effect upon becoming law and apply retroactively to January 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes -This bill will change how property appraisers determine if homestead property should be reassessed upon being rebuilt after being damaged or destroyed by misfortune. As such, it will cause a shift in the property tax burden resulting in lower taxes for some persons.

B. EFFECT OF PROPOSED CHANGES:

Background:

Article VII, s. 4 of the State Constitution requires that all property be assessed at its just market value for ad valorem tax purposes. Just value has been interpreted to mean fair market value.

Article VII s. 4(c) of the State Constitution, provides for a homestead property assessment increase limitation. This provision is commonly known as "Save our Homes". The annual increase in a homestead property's assessed value is limited to 3 percent or the Consumer Price Index percentage change, whichever is lower, not to exceed just value. If there is a change in ownership, the property must be assessed at its just value on the following January 1. The value of changes, additions, or improvements to the homestead property is assessed as provided by general law. Section 193.155, F.S., implements this assessment limitation.

Section 193.155(4), F.S., provides that changes, additions, or improvements to homestead property are assessed at just value as of the first January 1 after the changes, additions, or improvements are substantially completed. However, paragraph (b) of s. 193.155(4), F.S., stipulates that changes, additions, or improvements do not include replacement of a portion of real property damaged or destroyed by misfortune or calamity when the just value of the damaged or destroyed portion as replaced has a just value that is not more than 125 percent of the previous just value of the damaged or destroyed portion. The value of any replaced real property or portion thereof which is in excess of 125 percent of the just value of the damaged or destroyed property is deemed to be a change, addition, or improvement and subject to assessment.

Proposed Changes:

The bill amends s. 193.155(4), F.S., to provide that changes, additions, or improvements to damaged or destroyed homestead property shall not increase the assessed value if:

- the square footage of a homestead is increased by 10 percent or less, or
- the square footage of the house as rebuilt or repaired does not exceed 1500 square feet.

The bill also amends s. 196.031, F.S., to specifically provide that under the following conditions damaged or destroyed homestead property shall retain its homestead status, when the property is uninhabitable on January 1:

- the property otherwise qualifies as homestead property,
- the owner notifies the property appraiser that he or she intends to repair or rebuild the property and make it his or her primary residence once it is rebuilt, and
- the owner does not claim a homestead exemption on any other property or otherwise violate the provisions of s. 196.031, F.S.

C. SECTION DIRECTORY:

Section 1 amends s. 193.155(4), F.S., to change the criteria under which the repair or replacement of property destroyed by a calamity will not trigger a reassessment under Save our Homes.

Section 2 amends s. 196.031, F.S., to specifically provide that a homestead destroyed by misfortune or calamity shall not lose its homestead status under certain conditions, even if the home is not inhabitable on January 1.

Section 3 provides that the bill shall take effect upon becoming law and apply retroactively to January 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference has estimated that the bill reduces local revenues by $3.8 million on an annualized basis, assuming no change in millage rates by local governments.

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may reduce the assessed value of some property that replaces homestead property damaged or destroyed by misfortune or calamity, if the repairs or replacements fall within the bill's square footage thresholds but would have exceeded the current-law threshold of 125 percent of just value.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill reduces the authority that cities or counties have to raise ad valorem tax revenues in the aggregate. As such, the mandates provision would appear to apply. However, since the bill is implementing a constitutional provision, it can be argued that the mandates provision does not affect this bill. Nevertheless, it is recommended that the bill be passed by a two-thirds margin to avoid any possible constitutional issues.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to homestead property assessments;
3 amending s. 193.155, F.S.; revising exceptions applicable
4 to damaged or destroyed homestead property to a
5 requirement that changes, additions, or improvements to
6 homestead property be assessed at just value under certain
7 circumstances; providing for assessment of changed or
8 improved homestead property; amending s. 196.031,F.S.;
9 providing for the continued granting of a homestead
10 exemption for certain damaged or destroyed homestead
11 property under certain circumstances; providing for
12 retroactive application; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsection (4) of section 193.155, Florida
17 Statutes, is amended to read:
18 193.155 Homestead assessments.--Homestead property shall
19 be assessed at just value as of January 1, 1994. Property
20 receiving the homestead exemption after January 1, 1994, shall
21 be assessed at just value as of January 1 of the year in which
22 the property receives the exemption.
23 (4)(a) Except as provided in paragraph (b), changes,
24 additions, or improvements to homestead property shall be
25 assessed at just value as of the first January 1 after the
26 changes, additions, or improvements are substantially completed.
27 (b) Changes, additions, or improvements that replace all
28 or ~~do not include replacement of~~ a portion of homestead ~~real~~

29 property damaged or destroyed by misfortune or calamity shall
30 not increase the homestead property's assessed value when the
31 square footage of the homestead property as changed or improved
32 does not exceed 110 percent of the square footage of the
33 homestead property before the damage or destruction ~~just value~~
34 ~~of the damaged or destroyed portion as replaced is not more than~~
35 ~~125 percent of the just value of the damaged or destroyed~~
36 ~~portion~~. Additionally, the homestead property's assessed value
37 shall not increase if the total square footage of the homestead
38 property as changed or improved does not exceed 1,500 square
39 feet. Changes, additions, or improvements that do not cause the
40 total to exceed 110 percent of the total square footage of the
41 homestead property before the damage or destruction or that do
42 not cause the total to exceed 1,500 total square feet shall be
43 reassessed as provided under subsection (1). The homestead
44 property's assessed value shall be increased by the just value
45 of that portion of the changed or improved homestead property
46 ~~any replaced real property, or portion thereof,~~ which is in
47 excess of 110 ~~125~~ percent of the square footage of the homestead
48 property before the damage or destruction or of that portion
49 exceeding 1,500 square feet ~~just value of the damaged or~~
50 ~~destroyed property shall be deemed to be a change, addition, or~~
51 ~~improvement~~. Homestead ~~Replaced real~~ property damaged or
52 destroyed by misfortune or calamity which, after being changed
53 or improved, has a square footage ~~with a just value~~ of less than
54 100 percent of the homestead ~~original~~ property's total square
55 footage before the damage or destruction ~~just value~~ shall be
56 assessed pursuant to subsection (5). For purposes of determining

57 assessed value pursuant to this paragraph, the just value of the
58 changed or improved portion in excess of 110 percent of the
59 square footage of the homestead property before the damage or
60 destruction, or that portion exceeding 1,500 square feet, shall
61 be determined based on the average just value of all square
62 footage in the improved portions of the homestead property
63 determined as of January 1 of the year following the change or
64 improvement.
65 (c) Changes, additions, or improvements include
66 improvements made to common areas or other improvements made to
67 property other than to the homestead property by the owner or by
68 an owner association, which improvements directly benefit the
69 homestead property. Such changes, additions, or improvements
70 shall be assessed at just value, and the just value shall be
71 apportioned among the parcels benefiting from the improvement.
72 Section 2. Subsection (7) is added to section 196.031,
73 Florida Statutes, to read:
74 196.031 Exemption of homesteads.--
75 (7) When homestead property is damaged or destroyed by
76 misfortune or calamity and the property is uninhabitable on
77 January 1 after the damage or destruction occurs, the homestead
78 exemption may be granted if the property is otherwise qualified
79 and if the property owner notifies the property appraiser that
80 he or she intends to repair or rebuild the property and live in
81 the property as his or her primary residence after the property
82 is repaired or rebuilt and does not claim a homestead exemption
83 on any other property or otherwise violate this section.

84 Section 3. This act shall take effect upon becoming a law
85 and shall apply retroactively to January 1, 2006.

PCB GM 06-02

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GM 06-02 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee		Strickland	Grayson
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB GM-06-02 is a bill relating to growth managment. The PCB:

- Removes the requirement that the entire local comprehensive plan be financially feasible.
- Provides for a waiver of the transportation facilities concurrency requirements for certain urban infill, redevelopment, and downtown revitalization areas.
- Deletes record keeping and reporting requirements related to transportation de minimis impacts.
- Provides for small scale amendments for certain built-out municipalities.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background:

Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (CS/CS/CS SB 360), the Act, relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session.

Effect of Proposed Changes:

The bill removes the requirement that the entire comprehensive plan adopted by a local government be financially feasible.

The bill provides legislative findings that urban infill and redevelopment be promoted in Florida.

Transportation concurrency requirements: The bill provides for a waiver of transportation concurrency requirements for urban and redevelopment areas designated in the comprehensive plan for local governments that create a long-term vision that includes adequate finding, services, and multimodal transportation options. Specifically, this provision applies to urban infill and redevelopment areas designated in the comprehensive plan under s. 163.2517, F.S., or areas designated in the comprehensive plan prior to January 1, 2006, as urban infill development, urban redevelopment, or downtown revitalization.

De minimis impacts: The bill removes record keeping and reporting requirements related to transportation de minimis impacts.

Comprehensive Plan Amendments: The bill provides that municipalities that are 90% built-out, are exempt from the statutory limits on the frequency of consideration of amendments to the local comprehensive plan provided that the amendment involves a use of 100 acres or fewer and:

- The cumulative annual effect of the acreage for all amendments adopted does not exceed 500 acres.
- The proposed amendment does not involve the same property that has been granted a change within the prior 12 months.
- The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.
- The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan but only proposes a land use change to the future land use map for a site-specific small scale development activity.
- The property that is the subject of the proposed amendment is not located within an area of critical state concern.

Definition of "built-out":

- The bill defines the term "built-out" as "90 % of the property within the municipality's boundaries, excluding lands that are designated as conservation, preservation, recreation, or public facilities categories, have been developed, or are the subject oaf an approved development order that has received a building permit, and the municipality has an average density of 5 units per acre for residential development."

Notice Requirements:

- The bill provides that a local government is not required to comply with notice requirements so long as they comply with the provisions of s. 166.041 (3) (c), F.S. Further, the bill authorizes only local governments to enjoy the exemption provided for in this provision.
- The local government shall send copies of the notice and amendment to the sate land planning agency, the regional planning council, and any other person or entity requesting a copy, along with a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

Public Hearing – The bill provides that amendments adopted pursuant to the provisions of this bill will require only one public hearing before the governing board, which shall be an adoption hearing , and are not subject to the requirements of 163.3184 (3) – (6) unless the local government elects to have them subject to those requirements.

Annexation - The bill provides for a municipality may not enjoy the benefit of this exemption if it annexes unincorporated property that decreases the percentage of build-out to an amount below 90%.

Notice of buildout – The bill provides that the local government must notify Department of Community Affairs in writing of its built-out percentage prior to the submission of any local comprehensive plan amendments under this bill.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3177, F.S., relating to required and optional elements of comprehensive plan.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 163.3187, F.S., relating to amendments of adopted comprehensive plans.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to growth management; amending subsection
3 (2) of section 163.3177, Florida Statutes; deleting a
4 requirement that the entire comprehensive plan be
5 financially feasible; amending subsections (5) and (6) of
6 section 163.3180, Florida Statutes; providing a waiver of
7 the transportation facilities concurrency for certain
8 urban infill, redevelopment, and downtown revitalization
9 areas; deleting record keeping and reporting requirements
10 related to transportation de minimis impacts; amending
11 subsection (1) of section 163.3187, Florida Statutes;
12 providing for small scale amendments for certain built-out
13 municipalities; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Subsection (2) of section 163.3177, Florida
18 Statutes, is amended to read:
19 163.3177 Required and optional elements of comprehensive
20 plan; studies and surveys.--
21 (2) Coordination of the several elements of the local
22 comprehensive plan shall be a major objective of the planning
23 process. The several elements of the comprehensive plan shall be
24 consistent, and the comprehensive plan shall be ~~financially~~
25 feasible. Financial feasibility shall be determined using
26 professionally accepted methodologies.
27 Section 2. Paragraph (h) of subsection (5) and subsection
28 (6) of section 163.3180, Florida Statutes, are amended to read:
29 163.3180 Concurrency.--

30 (5)
31 (h) It is a high state priority that urban infill and
32 redevelopment be promoted and provided incentives. By promoting
33 the revitalization of existing communities of this state, a more
34 efficient maximization of space and facilities may be achieved
35 and urban sprawl discouraged. If a local government creates a
36 long-term vision for its community that includes adequate
37 funding, services, and multimodal transportation options, the
38 transportation facilities concurrency requirements of paragraph
39 (2)(c) are waived:
40 1. For urban infill and redevelopment areas designated in
41 the comprehensive plan under s. 163.2517; or
42 2. For areas designated in the comprehensive plan prior to
43 January 1, 2006, as urban infill development, urban
44 redevelopment, or downtown revitalization.
45 (6) The Legislature finds that a de minimis impact is
46 consistent with this part. A de minimis impact is an impact that
47 would not affect more than 1 percent of the maximum volume at the
48 adopted level of service of the affected transportation facility
49 as determined by the local government. No impact will be de
50 minimis if the sum of existing roadway volumes and the projected
51 volumes from approved projects on a transportation facility would
52 exceed 110 percent of the maximum volume at the adopted level of
53 service of the affected transportation facility; provided
54 however, that an impact of a single family home on an existing
55 lot will constitute a de minimis impact on all roadways
56 regardless of the level of the deficiency of the roadway.
57 Further, no impact will be de minimis if it would exceed the
58 adopted level-of-service standard of any affected designated

59 hurricane evacuation routes. ~~Each local government shall maintain~~
60 ~~sufficient records to ensure that the 110-percent criterion is~~
61 ~~not exceeded. Each local government shall submit annually, with~~
62 ~~its updated capital improvements element, a summary of the de~~
63 ~~minimis records. If the state land planning agency determines~~
64 ~~that the 110-percent criterion has been exceeded, the state land~~
65 ~~planning agency shall notify the local government of the~~
66 ~~exceedance and that no further de minimis exceptions for the~~
67 ~~applicable roadway may be granted until such time as the volume~~
68 ~~is reduced below the 110 percent. The local government shall~~
69 ~~provide proof of this reduction to the state land planning agency~~
70 ~~before issuing further de minimis exceptions.~~
71 Section 3. Paragraph (p) is added to subsection (1) of
72 section 163.3187, Florida Statutes, to read:
73 163.3187 Amendment of adopted comprehensive plan.--
74 (1) Amendments to comprehensive plans adopted pursuant to
75 this part may be made not more than two times during any calendar
76 year, except:
77 (p)1. For municipalities that are more than 90 percent
78 built-out, any municipality's comprehensive plan amendments may
79 be approved without regard to statutory limits on the frequency
80 of consideration of amendments to the local comprehensive plan
81 only if the proposed amendment involves a use of 100 acres or
82 fewer and:
83 a. The cumulative annual effect of the acreage for all
84 amendments adopted pursuant to this paragraph does not exceed 500
85 acres.
86 b. The proposed amendment does not involve the same
87 property granted a change within the prior 12 months.

88 c. The proposed amendment does not involve the same owner's
89 property within 200 feet of property granted a change within the
90 prior 12 months.
91 d. The proposed amendment does not involve a text change to
92 the goals, policies, and objectives of the local government's
93 comprehensive plan but only proposes a land use change to the
94 future land use map for a site-specific small scale development
95 activity.
96 e. The property that is the subject of the proposed
97 amendment is not located within an area of critical state
98 concern.
99 2. For purposes of this paragraph, the term "built-out"
100 means 90 percent of the property within the municipality's
101 boundaries, excluding lands that are designated as conservation,
102 preservation, recreation, or public facilities categories, have
103 been developed, or are the subject of an approved development
104 order that has received a building permit, and the municipality
105 has an average density of 5 units per acre for residential
106 development.
107 3.a. A local government that proposes to consider a plan
108 amendment pursuant to this paragraph is not required to comply
109 with the procedures and public notice requirements of s.
110 163.3184(15)(c) for such plan amendments if the local government
111 complies with the provisions of s. 166.041(3)(c). If a request
112 for a plan amendment under this paragraph is initiated by other
113 than the local government, public notice is required.
114 b. The local government shall send copies of the notice and
115 amendment to the state land planning agency, the regional
116 planning council, and any other person or entity requesting a

117 copy. This information shall also include a statement identifying
118 any property subject to the amendment that is located within a
119 coastal high hazard area as identified in the local comprehensive
120 plan.
121 4. Amendments adopted pursuant to this paragraph require
122 only one public hearing before the governing board, which shall
123 be an adoption hearing as described in s. 163.3184(7), and are
124 not subject to the requirements of s. 163.3184(3)-(6) unless the
125 local government elects to have them subject to those
126 requirements.
127 5. This paragraph shall not apply if a municipality annexes
128 unincorporated property that decreases the percentage of build-
129 out to an amount below 90 percent.
130 6. A municipality shall notify the state land planning
131 agency in writing of its built-out percentage prior to the
132 submission of any comprehensive plan amendments under this
133 subsection.
134 Section 4. This act shall take effect July 1, 2006.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 163.3180 Concurrency.--
7 (13)
8 (g) Interlocal agreement for school concurrency.--When
9 establishing concurrency requirements for public schools, a
10 local government must enter into an interlocal agreement that
11 satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and
12 163.31777 and the requirements of this subsection. The
13 interlocal agreement shall acknowledge both the school board's
14 constitutional and statutory obligations to provide a uniform
15 system of free public schools on a countywide basis, and the
16 land use authority of local governments, including their
17 authority to approve or deny comprehensive plan amendments and
18 development orders. The interlocal agreement shall be submitted
19 to the state land planning agency by the local government as a
20 part of the compliance review, along with the other necessary
21 amendments to the comprehensive plan required by this part. In

22 addition to the requirements of ss. 163.3177(6)(h) and
23 163.31777, the interlocal agreement shall meet the following
24 requirements:
25 5. Define the geographic application of school
26 concurrency. If school concurrency is to be applied on a less
27 than districtwide basis in the form of concurrency service
28 areas, the agreement shall establish criteria and standards for
29 the establishment and modification of school concurrency service
30 areas. ~~The agreement shall also establish a process and schedule~~
31 ~~for the mandatory incorporation of the school concurrency~~
32 ~~service areas and the criteria and standards for establishment~~
33 ~~of the service areas into the local government comprehensive~~
34 ~~plans.~~ The agreement shall ensure maximum utilization of school
35 capacity, taking into account transportation costs and court-
36 approved desegregation plans, as well as other factors. The
37 agreement shall also ensure the achievement and maintenance of
38 the adopted level-of-service standards for the geographic area
39 of application throughout the 5 years covered by the public
40 school capital facilities plan and thereafter by adding a new
41 fifth year during the annual update.
42
43 ========== D I R E C T O R Y A M E N D M E N T ==========
44 Before line(s) 134 insert:
45 Section 4. Paragraph (g) of subsection (13) of section
46 163.3180, Florida Statutes, is amended to read:
47
48 ========== T I T L E A M E N D M E N T ==========
49 Remove line(s) 13 and insert:
50 municipalities; amending s. 163.3180(13)(g), Florida
51 Statutes; deleting a requirement to adopt the school

52 concurrency service areas and criteria and standards for
53 establishment of the service areas into the local
54 government comprehensive plan; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (4) POWERS AND DUTIES.—The commission shall:
7 (h) The Commission is assigned to the Office of the
8 Secretary of the Department of Community Affairs for
9 administrative and fiscal accountability purposes, but it shall
10 otherwise function independently of the control and direction of
11 the department.
12 (i) The Commission shall develop a budget pursuant to
13 Chapter 216. The budget is not subject to change by the
14 department, but such budget shall be submitted to the Governor
15 along with the budget of the department.
16
17 ========== D I R E C T O R Y A M E N D M E N T ==========
18 Before line(s) 134 insert:
19 Section 4. Paragraphs (h) and (i) are added to subsection
20 (4) of section 163.3247, Florida Statutes, to read:
21

22 ========== T I T L E A M E N D M E N T ==========
23 Remove line(s) 13 and insert:
24 municipalities; adding paragraphs (h) and (i) to subsection
25 (4) of section 163.3247, Florida Statutes; assigning the
26 Century Commission for a Sustainable Florida to the
27 Department of Community Affairs for administrative and
28 fiscal accountability purposes; providing for budget
29 development; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 339.2819 Transportation Regional Incentive Program.--
7 (2) The percentage of matching funds provided from the
8 Transportation Regional Incentive Program shall be 50 percent of
9 project costs, or up to 50 percent of the nonfederal share of
10 the eligible project cost for a public transportation facility
11 project. As with road projects, federal urban attributable funds
12 are an eligible local match for transit projects.
13
14 ========== D I R E C T O R Y A M E N D M E N T ==========
15 Before line(s) 134 insert:
16 Section 4. Subsection (2) of section 339.2819, Florida
17 Statutes, is amended to read:
18
19 ========== T I T L E A M E N D M E N T ==========
20 Remove line(s) 13 and insert:

21 municipalities; providing that federal urban attributable
22 funds are an eligible local match for transit projects;
23 providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 163.31777 Public schools interlocal agreement.--
7 (3)
8 ~~(b) The state land planning agency's notice is subject to~~
9 ~~challenge under chapter 120; however, an affected person, as~~
10 ~~defined in s. 163.3184(1)(a), has standing to initiate the~~
11 ~~administrative proceeding, and this proceeding is the sole means~~
12 ~~available to challenge the consistency of an interlocal~~
13 ~~agreement required by this section with the criteria contained~~
14 ~~in subsection (2) and this subsection. In order to have~~
15 ~~standing, each person must have submitted oral or written~~
16 ~~comments, recommendations, or objections to the local government~~
17 ~~or the school board before the adoption of the interlocal~~
18 ~~agreement by the school board and local government. The district~~
19 ~~school board and local governments are parties to any such~~
20 ~~proceeding. In this proceeding, when the state land planning~~
21 ~~agency finds the interlocal agreement to be consistent with the~~

22 ~~criteria in subsection (2) and this subsection, the interlocal~~
23 ~~agreement shall be determined to be consistent with subsection~~
24 ~~(2) and this subsection if the local government's and school~~
25 ~~board's determination of consistency is fairly debatable. When~~
26 ~~the state planning agency finds the interlocal agreement to be~~
27 ~~inconsistent with the requirements of subsection (2) and this~~
28 ~~subsection, the local government's and school board's~~
29 ~~determination of consistency shall be sustained unless it is~~
30 ~~shown by a preponderance of the evidence that the interlocal~~
31 ~~agreement is inconsistent.~~
32 ~~(c) If the state land planning agency enters a final order~~
33 ~~that finds that the interlocal agreement is inconsistent with~~
34 ~~the requirements of subsection (2) or this subsection, it shall~~
35 ~~forward it to the Administration Commission, which may impose~~
36 ~~sanctions against the local government pursuant to s.~~
37 ~~163.3184(11) and may impose sanctions against the district~~
38 ~~school board by directing the Department of Education to~~
39 ~~withhold from the district school board an equivalent amount of~~
40 ~~funds for school construction available pursuant to ss. 1013.65,~~
41 ~~1013.68, 1013.70, and 1013.72.~~
42
43 ========== D I R E C T O R Y A M E N D M E N T ==========
44 Remove line(s) 134 and insert:
45 Section 4. Paragraphs (b) and (c) of subsection (3) of
46 163.31777 are amended to read:

47 ========== T I T L E A M E N D M E N T ==========
48 Remove line(s) 13 and insert:
49 municipalities; deleting challenge provisions related to
50 the public schools interlocal agreement; providing an
51 effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)
ADOPTED AS AMENDED __ (Y/N)
ADOPTED W/O OBJECTION __ (Y/N)
FAILED TO ADOPT __ (Y/N)
WITHDRAWN __ (Y/N)
OTHER ____

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (19) If a development within a municipality dedicates at
7 least 15 percent of its units to the construction of workforce
8 housing, then any existing or future charter county charter
9 provision, ordinance, land development regulation, or countywide
10 special act that governs the use, development, or redevelopment
11 of land shall not be applicable to such development, unless the
12 provision regulates expressive conduct. For purposes of this
13 subsection, the term "workforce housing" means housing that is
14 affordable to a household that earns less than 150 percent of
15 the area median household income adjusted for family size.
16
17 ========== D I R E C T O R Y A M E N D M E N T ==========
18 Before line(s) 134 insert:
19 Section 4. Subsection (19) is added to section 163.3184,
20 Florida Statutes.
21

22 ========== T I T L E A M E N D M E N T ==========

23 Remove line(s) 13 and insert:

24 municipalities; providing an exemption from the effect of

25 charter county provisions for certain development within a

26 municipality; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (e) Municipalities that have areas designated within their
7 comprehensive plan shall be exempt from the requirements for
8 transportation concurrency if they have an area-wide development
9 of regional impact; have not changed the boundaries of the
10 development of regional impact after 2005; and adopt a
11 mitigation plan to address transportation blight if one has not
12 been adopted as part of the area-wide development of regional
13 impact.
14
15
16 ========== D I R E C T O R Y A M E N D M E N T ==========
17 Remove line(s) 134 and insert:
18 Section 4. Paragraph (e) is added to subsection (9) of
19 section 163.3180, Florida Statutes, to read:
20
21 ========== T I T L E A M E N D M E N T ==========

000000

22 Remove line(s) 13 and insert:
23 municipalities; provides a transportation concurrency
24 exemption; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (c) Consistent with the public welfare, and except as
7 otherwise provided in this section, transportation facilities
8 needed to serve new development shall be in place or under
9 actual construction within 3 years after the local government
10 approves a building permit or its functional equivalent that
11 results in traffic generation. <u>However, local governments, in</u>
12 <u>cooperation with the Department of Transportation, which adopt a</u>
13 <u>five-year or longer transportation improvements plan for future</u>
14 <u>development and make the financial commitments to fund such</u>
15 <u>plan, shall be deemed concurrent throughout the duration of the</u>
16 <u>plan even if in any particular year such transportation</u>
17 <u>improvements are not concurrent.</u>

18 ========== D I R E C T O R Y A M E N D M E N T ==========
19 Before line(s) 134 insert:
20 Section 4. Paragraph (c) of subsection (2) of section
21 163.3180, Florida Statutes, is amended to read:
22
23 ========== T I T L E A M E N D M E N T ==========
24 Remove line(s) 13 and insert:
25 municipalities; providing that transportation concurrency
26 is met under certain circumstances; providing an effective
27 date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (b)1. The capital improvements element shall be reviewed
7 on an annual basis and modified as necessary in accordance with
8 s. 163.3187 or s. 163.3189 in order to maintain a financially
9 feasible 5-year schedule of capital improvements. Corrections
10 and modifications concerning costs; revenue sources; or
11 acceptance of facilities pursuant to dedications which are
12 consistent with the plan may be accomplished by ordinance and
13 shall not be deemed to be amendments to the local comprehensive
14 plan. A copy of the ordinance shall be transmitted to the state
15 land planning agency. An amendment to the comprehensive plan is
16 required to update the schedule on an annual basis or to
17 eliminate, defer, or delay the construction for any facility
18 listed in the 5-year schedule. An affected person may only
19 challenge the addition of a facility when it is first added to
20 the 5-year schedule of capital improvements, or when a project
21 is proposed to be eliminated, deferred or delayed. All public

22 facilities shall be consistent with the capital improvements
23 element. Amendments to implement this section must be adopted
24 and transmitted no later than December 1, 2007. Thereafter, a
25 local government may not amend its future land use map, except
26 for plan amendments to meet new requirements under this part and
27 emergency amendments pursuant to s. 163.3187(1)(a), after
28 December 1, 2007, and every year thereafter, unless and until
29 the local government has adopted the annual update and it has
30 been transmitted to the state land planning agency. <u>If there is</u>
31 <u>a challenge by an affected party to the 5-year schedule of</u>
32 <u>capital improvements, a local government may continue to adopt</u>
33 <u>plan amendments to its future land use map during the pendency</u>
34 <u>of the challenge and any related litigation. The outcome of the</u>
35 <u>third party challenge to the 5-year schedule of capital</u>
36 <u>improvements shall not affect any amendments adopted during the</u>
37 <u>pendency of such challenge and any related litigation.</u>
38
39
40 ========== D I R E C T O R Y A M E N D M E N T ==========
41 Before line(s) 134 insert:
42 Section 4. Subparagraph 1 of paragraph (b) of subsection 3
43 of section 163.3177, Florida Statutes, is amended to read:
44
45 ========== T I T L E A M E N D M E N T ==========
46 Remove line(s) 13 and insert:
47 municipalities; providing for the effectiveness of future
48 land use amendments following a challenge to the 5-year
49 schedule of capital improvements; providing an effective
50 date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 4. School capacity shall not be the basis to find any
7 amendment to a local government comprehensive plan not in
8 compliance pursuant to section 163.3184, until the date
9 established pursuant to section 163.3177(12)(i) provided that
10 data and analysis is submitted to the state land planning agency
11 demonstrating coordination between the school board and local
12 government to plan to address capacity issues.
13
14 ========== D I R E C T O R Y A M E N D M E N T ==========
15 Before line(s) 134 insert:
16 Section 4. Subparagraph 4 is added to paragraph (d) of
17 subsection (13) of section 163.3180, Florida Statutes, to read:
18
19 ========== T I T L E A M E N D M E N T ==========
20 Remove line(s) 13 and insert:

21 municipalities; providing that school capacity is not a
22 basis for finding a comprehensive plan amendment not in
23 compliance; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 (24) STATUTORY EXEMPTIONS.
7 (l) Any proposed development within an urban service
8 boundary established under s. 163.3177(14) is exempt from the
9 provisions of this section if the local government having
10 jurisdiction over the area where the development is proposed has
11 adopted the urban service boundary, ~~and~~ has entered into a
12 binding agreement with ~~adjacent~~ jurisdictions that would be
13 impacted and with the Department of Transportation regarding the
14 mitigation of impacts on state and regional transportation
15 facilities, and has adopted a proportionate share methodology
16 pursuant to s. 163.3180(16).
17 (m) Any proposed development within a rural land
18 stewardship area created under s. 163.3177(11)(d) is exempt from
19 the provisions of this section if the local government that has
20 adopted the rural land stewardship area has entered into a
21 binding agreement with jurisdictions that would be impacted and

22 the Department of Transportation regarding the mitigation of
23 impacts on state and regional transportation facilities, and has
24 adopted a proportionate share methodology pursuant to s.
25 163.3180(16).
26 (n) Any proposed development or redevelopment within an
27 area designated as an urban infill and redevelopment area under
28 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
29 local government has entered into a binding agreement with
30 jurisdictions that would be impacted and the Department of
31 Transportation regarding the mitigation of impacts on state and
32 regional transportation facilities, and has adopted a
33 proportionate share methodology pursuant to s. 163.3180(16).
34 (28) PARTIAL STATUTORY EXEMPTIONS.
35 (a) If the binding agreement referenced under paragraph
36 (24)(l) for urban service boundaries is not entered into within
37 12 months after establishment of the urban service boundary, the
38 development-of-regional-impact review for projects within the
39 urban service boundary must address transportation impacts only.
40 (b) If the binding agreement referenced under paragraph
41 (24)(n) for designated urban infill and redevelopment areas is
42 not entered into within 12 months after the designation of the
43 area or July 1, 2007, whichever occurs later, the development-
44 of-regional-impact review for projects within the urban infill
45 and redevelopment area must address transportation impacts only.
46 (c) If the binding agreement referenced under paragraph
47 (24(m) for rural land stewardship areas is not entered into
48 within 12 months after the designation of a rural land
49 stewardship area, the development-of-regional-impact review for
50 projects within the rural land stewardship area must address
51 transportation impacts only.

52 (d) A local government that does not wish to enter into a
53 binding agreement or that is unable to agree on the terms of the
54 agreement referenced under paragraph (24)(l), paragraph (24)(m),
55 or paragraph (24)(n) shall provide written notification to the
56 state land planning agency of the desire not to enter into a
57 binding agreement or failure to enter into a bind agreement
58 within the 12-month period referenced in paragraphs (a), (b) and
59 (c). Following the notification of the state land planning
60 agency, the development-of-regional-impact review for projects
61 within the urban service boundary under paragraph (24)(l), a
62 rural land stewardship area under paragraph (24)(m), or for an
63 urban infill and redevelopment area under paragraph (24)(n) must
64 address transportation impacts only.
65
66 ========== D I R E C T O R Y A M E N D M E N T ==========
67 Before line(s) 134 insert:
68 Section 4. Subsection (24) of section 380.06, Florida
69 Statutes, is amended; and subsection (28) is added to section
70 380.06, Florida Statutes, to read:
71
72 ========== T I T L E A M E N D M E N T ==========
73 Remove line(s) 13 and insert:
74 municipalities; clarifying an exemption from development of
75 regional impact review; providing consequences for entering
76 and not entering a binding agreement relating to certain
77 development; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GM 06-03 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee		Strickland B.S.	Grayson
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

PCB GM-06-03 is a bill relating to the planning and funding of infrastructure. The PCB:

- Provides that the Department of Community Affairs shall not use the lack of availability of water as a basis for finding a comprehensive plan amendment not in compliance if the local government transmits with its adopted plan amendment a letter from the applicable water supplier that provides that adequate water supplies will be available.

- Provides that should the water provider have a property interest in the land that is subject to the amendment, the letter must be provided by the applicable water management district.

The bill includes a $25 million appropriation to the Conservation and Recreation Lands Program Trust Fund from the General Revenue Funds.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Background:

Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (CS/CS/CS SB 360), the Act, relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session.

Effect of Proposed Change:

The bill provides that the Department of Community Affairs must not use the lack of availability of water for finding a comprehensive plan amendment not in compliance of an adopted comprehensive plan amendment under the following circumstances:

- A letter is provided along with the adopted comprehensive plan amendment by the applicable water supplier that provides that adequate water supplies will be available, or
- In the case that the water supplier has a property interest in the subject property, a letter is provided and submitted by the applicable water management district setting forth that adequate water will be available.

The bill appropriates $25 million in the General Revenue Funds for the Conservation and Recreation Lands Program Trust Fund with the Department of Agriculture and Consumer Services, for the purposes of conservation easements and agreements.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3184, F.S., relating to the adoption of comprehensive plans and amendments.

Section 2: Provides for a $25 million appropriation to the Conservation and Recreation Lands Program Trust Fund from the General Revenue Funds.

Section 3:Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appropriates $25 million dollars from General Revenue Funds to the Conservation and Recreation Lands Program Trust Fund.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There does not appear to be a direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

Not applicable.

B. RULE-MAKING AUTHORITY:

Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to Growth Management; amending paragraph
3 (b) of subsection 8 of section 163.3184, Florida Statutes;
4 providing a limitation related to compliance
5 determinations by the state land planning agency;
6 providing affordable housing density bonuses; providing an
7 appropriation; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Paragraph (b) of subsection (8) of section
12 163.3184, Florida Statutes, is amended to read:
13 163.3184 Process for adoption of comprehensive plan or plan
14 amendment.--
15 (8) NOTICE OF INTENT.--
16 (b) Except as provided in paragraph (a) or in s.
17 163.3187(3), the state land planning agency, upon receipt of a
18 local government's complete adopted comprehensive plan or plan
19 amendment, shall have 45 days for review and to determine if the
20 plan or plan amendment is in compliance with this act, unless the
21 amendment is the result of a compliance agreement entered into
22 under subsection (16), in which case the time period for review
23 and determination shall be 30 days. If review was not conducted
24 under subsection (6), the agency's determination must be based
25 upon the plan amendment as adopted. If review was conducted under
26 subsection (6), the agency's determination of compliance must be
27 based only upon one or both of the following:
28 1. The state land planning agency's written comments to the
29 local government pursuant to subsection (6); or

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

V

30 2. Any changes made by the local government to the
31 comprehensive plan or plan amendment as adopted.
32 3. However, if a state land planning agency's written
33 comments to the local government pursuant to subsection (6)
34 relates to the availability of water, the agency shall not use
35 the lack of availability of water during the agency's
36 determination of compliance if the applicable local government
37 transmits with its adopted plan amendment a letter from the
38 applicable water supplier that provides that adequate water
39 supplies will be available. If the applicable water supplier
40 owns a property interest in the land that is the subject of the
41 plan amendment, then the local government must submit a letter
42 from the applicable water management district providing that
43 adequate water supplies will be available.
44 Section 2. There is hereby appropriated the sum of $25
45 million from the General Revenue Funds for the Conservation and
46 Recreation Lands Program Trust Fund within the Department of
47 Agriculture and Consumer Services, for the purposes of section
48 570.71.
49 Section 3. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 to PCB GM 06-03

Bill No. **PBC GM 06-03**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between line(s) 48 and 49 insert:
6 (f)6. If the local government determines that the proposed
7 change does not require further development-of-regional-impact
8 review and is otherwise approved, or if the proposed change is
9 not subject to a hearing and determination pursuant to
10 subparagraphs 3. and 5. and is otherwise approved, the local
11 government shall issue an amendment to the development order
12 incorporating the approved change and conditions of approval
13 relating to the change. <u>The requirement that a change be</u>
14 <u>otherwise approved shall not be construed to require additional</u>
15 <u>local review or approval if the change is allowed by applicable</u>
16 <u>local ordinances without further local review or approval.</u> The
17 decision of the local government to approve, with or without
18 conditions, or to deny the proposed change that the developer
19 asserts does not require further review shall be subject to the
20 appeal provisions of s. 380.07. However, the state land planning
21 agency may not appeal the local government decision if it did

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22 not comply with subparagraph 4. The state land planning agency
23 may not appeal a change to a development order made pursuant to
24 subparagraph (e)1. or subparagraph (e)2. for developments of
25 regional impact approved after January 1, 1980, unless the
26 change would result in a significant impact to a regionally
27 significant archaeological, historical, or natural resource not
28 previously identified in the original development-of-regional-
29 impact review.
30
31 ========== D I R E C T O R Y A M E N D M E N T ==========
32 Between line(s) 48 and 49 insert:
33 Section 3. Subparagraph 6 of paragraph (f) of subsection
34 (19) of section 380.06, Florida Statutes, is amended to read:
35
36 ========== T I T L E A M E N D M E N T ==========
37 Remove line(s) 7 and insert:
38 appropriation; providing clarification; providing an
39 effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2 to PCB GM 06-03

Bill No. **PBC GM 06-03**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between line(s) 48 and 49 insert:
6 (h) New applications for development approval within or
7 adjacent and contiguous to property which has been granted a
8 transportation concurrency exception pursuant to this section
9 shall not be required to include traffic generated as a result
10 of the grant of the exemption in their traffic concurrency
11 calculations.
12 ========== D I R E C T O R Y A M E N D M E N T =========
13 Between line(s) 48 and 49 insert:
14 Section 3. Paragraph (h) is added to subsection (5) of
15 section 163.3180, Florida Statutes, to read:
16
17 ========== T I T L E A M E N D M E N T ==========
18 Remove line(s) 7 and insert:
19 appropriation; providing direction for the calculation of
20 traffic concurrency; providing an effective date.

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Growth Management Committee Amendments

Tuesday, March 28, 2006
1:00 PM – 4:00 PM
212 Knott Building

Allan G. Bense
Speaker

Randy Johnson
Chair

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Substitute Amendment for Amendment (3) by Representative**
5 **Johnson (with directory and title amendments)**
6 Remove line(s) 134 and insert:
7 339.2819 Transportation Regional Incentive Program.--
8 (2) The percentage of matching funds provided from the
9 Transportation Regional Incentive Program shall be 50 percent of
10 project costs~~, or up to 50 percent of the nonfederal share of~~
11 ~~the eligible project cost for a public transportation facility~~
12 ~~project~~.
13
14 ========== D I R E C T O R Y A M E N D M E N T ==========
15 Remove line(s) 134 and insert:
16 Section 4. Subsection (2) of section 339.2819, Florida
17 Statutes, is amended to read:
18
19 ========== T I T L E A M E N D M E N T ==========
20 Remove line(s) 13 and insert:

21 municipalities; revises criteria for matching funds for the
22 Transportation Regional Incentive Program ; providing an
23 effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)
ADOPTED AS AMENDED __ (Y/N)
ADOPTED W/O OBJECTION __ (Y/N)
FAILED TO ADOPT __ (Y/N)
WITHDRAWN __ (Y/N)
OTHER ____

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Substitute Amendment for Amendment (5) by Representative**
5 **Johnson (with directory and title amendments)**
6 Remove line(s) 134 and insert:
7 163.3172 Development incentives for workforce housing.--
8 (1) The Legislature recognizes that there is a growing
9 need for the development of residential housing units that are
10 affordable to Florida's working citizens. In addition, the
11 Legislature recognizes that statutory provisions oftentimes
12 contribute to a developer not including affordable residential
13 units within its development as a result of increased costs
14 arising from statutory requirements. The Legislature declares
15 that it is of utmost importance to incentivize the development
16 of workforce housing by providing benefits and regulatory relief
17 to a developer if a development includes a specified percentage
18 of its residential units as workforce housing units. For
19 purposes of this section, the term "workforce housing" means
20 housing that is affordable to a household that earns less than
21 150 percent of the area median household income adjusted for
22 family size.

23 (2) Developments that include the specified percentage of
24 residential units within its development that qualify as
25 workforce housing shall receive the following incentives:
26 (a) If a development within a municipality dedicates at
27 least 15 percent of its units to the construction of workforce
28 housing, then any existing or future charter county charter
29 provision, charter county ordinance, charter county land
30 development regulation, or countywide special act that governs
31 the use, development, or redevelopment of land shall not be
32 applicable to such development, unless the provision regulates
33 expressive conduct. For purposes of this subsection, the term
34 "workforce housing" means housing that is affordable to a
35 household that earns less than 150 percent of the area median
36 household income adjusted for family size.
37 (b) Density Bonus. A development's approved residential
38 units shall be increased by the following percentage based upon
39 the percentage of residential units that qualify as workforce
40 housing:
41 1. 15 percent of qualified units: development receives a
42 15 percent increased in residential units;
43 2. 20 percent of qualified units: development receives a
44 20 percent increased in residential units;
45 3. 25 percent of qualified units: development receives a
46 25 percent increased in residential units;
47 4. 35 percent of qualified units: development receives a
48 35 percent increased in residential units; and
49 5. 50 percent of qualified units: development receives a
50 50 percent increased in residential units.
51
52 A developer qualifying for and receiving a density bonus under
53 this subsection shall not be required to utilize the increased

54 residential units for workforce housing nor shall the increased
55 number of residential units be included within a local
56 government's determination of the number of trips generated by
57 the development.
58 (c) Expedited Permitting. Recognizing that time delays in
59 permitting a development may result in increase development
60 costs, permits associated with a development with at least 15
61 percent of its residential units that are qualified as workforce
62 housing shall be reviewed by the applicable local government on
63 an expedited basis. Within 90 days of the effective date of
64 this act, the Department of Community Affairs shall implement by
65 rule an expedited permitting process similar to section 288.109,
66 Florida Statutes.
67
68 ========== D I R E C T O R Y A M E N D M E N T ==========
69 Remove line(s) 134 and insert:
70 Section 4. Section 163.3172,Florida Statutes is created to
71 read:
72
73 ========== T I T L E A M E N D M E N T ==========
74 Remove line(s) 13 and insert:
75 municipalities; providing an exemption from the effect of
76 charter county provisions for certain development within a
77 municipality; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Substitute Amendment for Amendment (6) by Representative**
5 **Johnson (with directory and title amendments)**
6 Remove line(s) 134 and insert:
7 163.3180 Concurrency.--
8 (5)
9 (h) Municipalities that have an area-wide development of
10 regional impact created under s. 380.06 (25), F.S., or a
11 downtown development authority created under 380.06 (22), F.S.
12 shall be exempt from the requirements of transportation
13 concurrency within the designated area if: they have not
14 increased the boundaries of the development of regional impact
15 after July 1, 2005; and adopt a mitigation plan, with funding
16 identified, to address transportation deficiencies if one has
17 not been adopted as part of the creation of the area-wide
18 development of regional impact.
19
20 ========== D I R E C T O R Y A M E N D M E N T ==========
21 Remove line(s) 134 and insert:

22 Section 4. Paragraph (e) is added to subsection (9) of section
23 163.3180, Florida Statutes, to read:
24
25 ========== T I T L E A M E N D M E N T ==========
26 Remove line(s) 13 and insert:
27 municipalities; provides a transportation concurrency
28 exemption; providing an effective date.

Bill No. **PCB GM 06-02**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Between line(s) 44 and 45 insert:
6 The local government and Department of Transportation shall
7 cooperatively establish a plan for maintaining the adopted
8 level-of-service standards established by the Department of
9 Transportation for Strategic Intermodal System facilities, as
10 defined in s. 339.64.
11 2. Municipalities that are at least 90 percent built-out.
12 For purposes of this exemption:
13 a. The term "built-out" means that 90 percent of the
14 property within the municipality's boundaries, excluding lands
15 that are designated as conservation, preservation, recreation,
16 or public facilities categories, have been developed, or are the
17 subject of an approved development order that has received a
18 building permit and the municipality has an average density of 5
19 units per acre for residential developments.
20 b. The municipality must have adopted an ordinance that
21 provides the methodology for determining its built-out

22 percentage, declares that transportation concurrency
23 requirements are waived within its municipal boundary or within
24 a designated area of the municipality, and addresses multimodal
25 options and strategies, including alternative modes of
26 transportation within the municipality. Prior to the adoption of
27 the ordinance, the Department of Transportation shall be
28 consulted by the local government to assess the impact that the
29 waiver of the transportation concurrency requirements is
30 expected to have on the adopted level-of-service standards
31 established for Strategic Intermodal System facilities, as
32 defined in s. 339.64. Further, the local government shall
33 cooperatively establish a plan for maintaining the adopted
34 level-of-service standards established by the department for
35 Strategic Intermodal System facilities, as defined in s. 339.64.
36 c. If a municipality annexes any property, the
37 municipality must recalculate its built-out percentage pursuant
38 to the methodology set forth in its ordinance to verify whether
39 the annexed property may be included within this exemption.
40 d. If transportation concurrency requirements are waived
41 under this subparagraph, the municipality must adopt a
42 comprehensive plan amendment pursuant to s. 163.3187(1)(c) which
43 updates its transportation element to reflect the transportation
44 concurrency requirements waiver and must submit a copy of its
45 ordinance adopted in subparagraph b. to the state land planning
46 agency.
47
48 ========== T I T L E A M E N D M E N T ==========
49 Remove line(s) 8 and 9 and insert:
50 urban infill, redevelopment, downtown revitalization areas,
51 and certain built-out municipalities; providing criteria

52 for such built-out municipalities; deleting record keeping
53 and reporting requirements

Bill No. **PCB GM 06-03**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: Growth Management Committee
2 Representative(s) Johnson offered the following:
3
4 **Amendment (with directory and title amendments)**
5 Before line(s) 134 insert:
6 163.3180 Concurrency.--
7 (17)
8 (a) It is the intent of the Legislature to confirm and
9 ratify the ability of local governments to require all new
10 development to mitigate for its impact on transportation
11 facilities, regardless of the size or type of development by
12 payment of a "per trip" fee. In order to ensure that the cost
13 of transportation facilities is equitable and equally
14 distributed, the Legislature recognizes that a local government
15 may charge a fee per trip to be put on roadways and paid at the
16 time of issuance of a building permit for any new structure.
17 Such a fee shall be known as a "Trip Fee" and may be used to
18 fund new facilities or to fix existing deficiencies on
19 transportation facilities. Should the local government proceed
20 to adopt a Trip Fee, no diminimis impact shall be allowed.
21

22 (b) The Department of Transportation shall, by December 1,
23 2006, develop a model ordinance containing a methodology for
24 local governments to use in implementing the Trip Fee concept.
25 Local governments shall not be required to adopt such a concept
26 but are encouraged to view this as an alternative to the local
27 government's adopting impact fees for transportation facilities.
28
29
30 ========== D I R E C T O R Y A M E N D M E N T ==========
31 Before line(s) 134 insert:
32 Section 4. Subsection (17) of section 163.3180, Florida
33 Statutes is created to read.
34
35 ========== T I T L E A M E N D M E N T ==========
36 Remove line(s) 7 and insert:
37 appropriation; creating a trip fee; providing an effective
38 date.
39