Growth Management Committee

Tuesday, March14, 2006
2:00 PM – 4:00 PM
212 Knott Building

Revised

Allan G. Bense
Speaker

Randy Johnson
Chair

Florida House of Representatives
Growth Management Committee

Allan Bense
Speaker

Randy Johnson
Chair

AGENDA

GROWTH MANAGEMENT COMMITTEE
Tuesday, March14, 2006
2:00 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 431 CS by Rep. Littlefield – Electrical Transmission and Distribution

IV. Workshop on the following:

SB 360 (2205) Glitches

Developments of Regional Impact

V. Meeting Adjourned

303 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300 (850) 488-1489
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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 431 CS Local Government Land Development Regulation
SPONSOR(S): Littlefield
TIED BILLS: **IDEN./SIM. BILLS:** SB 980

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Utilities & Telecommunications Committee	14 Y, 1 N, w/CS	Cater	Holt
2) Growth Management Committee		Strickland	Grayson
3) Local Government Council			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The zoning districts for electrical substation siting are determined by individual local governments. As a result, varying regulations for substation siting have been established. Currently, electrical substations for distribution lines are sited as a special use or a conditional use through the local government planning and zoning processes. Likewise, land development regulations and ordinances for vegetation maintenance vary among local governments.

HB 431 creates ss. 163.3208, 163.3209, and 186.0201, F.S., relating to electrical transmission and distribution. The bill provides consistency among the regulations for substation siting and in the vegetation management within electric power line rights-of-way. The bill additionally establishes a role for utilities to submit their 3-year plans for siting substations and to have that advisory information included in the regional planning councils' annual reports.

Generally, the bill establishes new substations as a permittable use in all land use categories and zoning districts within a utility's service territory. If a local government does not adopt reasonable standards for setback, landscaping, buffering, or screening substations, provisions are provided in the bill for default standards. The bill also provides a timeframe for a local government to grant or deny an application for an electrical substation, or the application is deemed approved, and provisions are included to provide for public input.

The bill prohibits local governments from requiring permits or other approvals for vegetation maintenance in an established electrical transmission or distribution line right-of-way, but it requires the utility to provide the local government with five days advance notice before conducting vegetation management activities. These activities shall conform to ANSI standards, and they must be supervised by qualified utility personnel, licensed contractors under the utility's control, or by certified arborists. Further, the bill specifies vegetation height limits within an established right-of-way.

The bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government- The bill provides that electrical substations are a permittable use in all land use categories and zoning districts, except for preservation and conservation areas. The bill provides default requirements in case the local government does not adopt reasonable standards for substation siting. The bill provides that a local government shall not require permits or other approval for vegetation management and tree trimming within an electric utility's established right-of-way. The bill provides minimum standards for vegetation maintenance by electric utilities. The bill requires electric utilities to submit their three-year plan for siting electrical substations to the regional planning councils for inclusion in their annual reports.

Maintain Public Security-The bill may increase electric reliability by making electrical substations permittable in all land use categories and zoning districts, thereby placing them closer to the loads they serve, and by making it easier for electric utilities to manage intrusive vegetation within their rights-of-way.

B. EFFECT OF PROPOSED CHANGES:

Background

Comprehensive Planning and Zoning
The Local Government Comprehensive Planning and Land Development Regulation Act, ss. 163.3161 – 163.3217, F.S., requires local governments to plan for future development and growth through the adoption and amendment of their comprehensive plans. Local governments have broad constitutional and statutory powers to plan for and regulate land use. A local government's comprehensive plan and land use classifications dictate the allowable land uses for each parcel.

Each local government is required to adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.[1] Section 163.3164(23), F.S., defines the term "land development regulations" as "ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land, . . ." A substantially affected person, as defined in ch. 120, F.S., may challenge a land development regulation on the basis that it is inconsistent with the local government's comprehensive plan.[2] Citizens have standing to enforce a local comprehensive plan through challenging the consistency of a development order with that plan.[3]

Electrical Power Plant and Transmission Line Siting
Part II of ch. 403, F.S., governs electrical power plant and transmission line siting. It sets forth a process for applying for electrical power plant site certification with the Department of Environmental Protection. Within 90 days after the department receives a complete application, a designated administrative law judge holds a land use hearing in the county of the proposed site.[4] The sole issue for determination at the hearing is whether the proposed site is consistent, and in compliance, with the jurisdiction's existing land use plan and zoning ordinances.[5] For purposes of this application process,

[1] S. 163.3202(1), Fla. Stat. (2005).
[2] S. 163.3213, Fla. Stat. (2005).
[3] S. 163.3215, Fla. Stat. (2005).
[4] S. 403.508(1), Fla. Stat. (2005).
[5] S. 403.508(2), Fla. Stat. (2005).

an associated transmission line may include any proposed terminal or intermediate substations or substation expansions at the applicant's option.[6]

Electrical substations for distribution lines are typically sited as a special use or conditional use through the local government planning and zoning process. The terms "special use" or "conditional use" refer to those land uses that are not permitted outright under a local government's zoning code, but may be approved by the zoning board.

Vegetation Management and Tree Trimming in a Utility Right-of-Way
Based on a compilation of the 2004 Electric Reliability Reports[7] submitted by the investor-owned electric utilities, 17 percent of all electrical outages are vegetation related, making it second only to equipment failures. Moreover, this statistic does exclude events such as hurricanes and tornados since pursuant to Rule 25-6.0455(2), F.A.C., outages related to these events may be excluded from the report.

In order to avoid tree-related outages, the electric utilities have established vegetation management plans. Depending on the species of tree, the management plan will establish a schedule and an allowable distance for trimming. Vegetation management may also include the removal of nuisance trees, the use of growth retardants, and selective directional trimming to maintain a balanced canopy. There are national standards for tree trimming that have been developed by the International Society of Arboriculture and the National Arborist Association. A primary vegetation management concern is that fast-growing invasive species can make contact with facilities in rights-of-way which may contribute to power outages.

Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Electric utility providers may be subject to these tree ordinances or permit requirements.

Regional Planning Councils' Annual Report
Florida has 11 regional planning councils that serve as a link between the state and local governments that share mutual resources, characteristics, and issues within an area. Each regional planning council includes members from counties and municipalities located in the region's planning district and gubernatorial appointees. Section 186.513, F.S., requires each regional planning council to provide an annual report on its activities to the department[8] and the local general-purpose governments within its jurisdiction. Interested persons may also obtain a copy of the report for a fee.

Proposed Changes

Section 1.
Electric Substation Siting
The bill creates s. 163.3208, F.S., relating to substation approval process.[9] The bill provides legislative intent that conveys a correlation between reliability and the construction and maintenance of electrical infrastructure in various locations, in order to ensure efficient and reliable delivery of electric service.

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[6] S. 403.503(12), Fla. Stat. (2005).
[7] The 2005 reports are due to be filed early March 2006.
[8] Existing law does not identify to which "department" the regional planning councils are directed to provide their annual report. Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."
[9] Electric utilities use substations to "step-down" voltage so it is usable by end users.

Section 163.3208(2), F.S., clarifies that electrical substations are a critical component of transmission and distribution. Further, local government may enact reasonable land development regulations for setback, landscape buffering, or other aesthetic compatibility standards for electrical substations. The bill provides that vegetation buffer height, beneath aerial access points to substation equipment, may not exceed 14 feet. Within a utility service territory, new substation siting shall be a permittable use in all land use categories in the applicable comprehensive plan and zoning districts. An exception is provided for new substation siting on any future land use map or adopted ordinance designated preservation or conservation. Default standards are provided if a local government has not adopted reasonable standards for substation siting in accordance with applicable adoption procedures as follows:

- *Nonresidential Areas*-the same setback and buffer criteria for similar uses in that district;
- *Residential Areas*-a setback up to 100 feet between the property boundary of the substation and permanent equipment structures must be maintained as follows:
    - *Setbacks between 50 and 100 feet*-landscaped area with native trees and shrub material with a security fence around the equipment, creating open green-space;
    - *Setbacks between 25 and 49 feet*-eight foot buffer wall or eight foot fence with native landscaping installed around the substation;
    - *Setbacks less than 25 feet*-decorative wall or facade at least 10 feet in height with exterior native landscaping installed around the substation.

The bill provides that standards for substation siting adopted after the act's effective date are not applicable to applications that were submitted prior to the local government's notice of adoption hearing.

Pursuant to s. 163.3208(3), F.S., if a local government has adopted substation siting standards within any land use category or zoning district, it shall grant or deny a properly completed application within 60 business days after the application is declared complete[10]. This process does not create a situation whereby an applicant can be non-compliant with applicable federal or state laws or rules and applicable local land and development or building rules. If the local government does not grant or deny a properly completed application within the required timeframe, the application is deemed automatically approved, and without penalty or interference, the construction may proceed consistent with the application.

The bill establishes, for administrative purposes only, time frames for determining if an application is complete as follows:

- Local government notifies permit applicant within 30 business days after application is submitted as to proper completeness and proper submission.
- Further determination of completeness shall be provided within 15 days after the receipt of additional information. Such determination is not a conveyance of application approval.

For existing local regulatory land use procedures for conditional use or special exception, that provide for public input, the bill does not prohibit the applicability or enforcement of those procedures in effect as of the act's effective date. However, for land use, conditional use, or special-exception review of an electrical substation, the local government is limited to imposing standards and conditions standards adopted under s. 163.3208(2), and public input may be provided in a workshop or informational format.

Section 2.
Electrical Transmission and Distribution Line Right-of-Way Maintenance

Sections 337.401-337.404, F.S., provide that the Department of Transportation and local governmental entities that have jurisdiction and control of public roads or publicly owned rail corridors are authorized

[10] Currently, there are varying timeframes for this process.

to prescribe and enforce reasonable rules or regulations with reference to the placing and maintaining along, across, or on any road or publicly owned rail corridors, under their respective jurisdictions, any electric transmission, telephone, telegraph, or other communications services lines; pole lines; poles; railways; ditches; sewers; water, heat, or gas mains; pipelines; fences; gasoline tanks and pumps; or other structures hereinafter referred to as the "utility."

The bill creates s. 163.3209, F.S. providing that after a right-of-way for an electrical transmission or distribution line has been established, a local government may not require any permits or other approvals for vegetation maintenance, tree pruning or trimming within that right-of-way. Currently, the majority of local governments require utilities to obtain a permit every time routine vegetation maintenance is conducted in any established electric utility right-of-way. The bill provides a five day advance notice requirement before conducting vegetation maintenance activities within the right-of-way, with an exception for emergencies or service restoration.

By the bill provisions, local governments have the authority to request a meeting with the utility to discuss and submit the utility's vegetation-maintenance plan, including the utility's trimming specifications and maintenance practices. Section 163.3209, F.S., further requires that vegetation maintenance conform to ANSI[11] standards and that vegetation management activities be supervised by qualified utility personnel, licensed contractors under the utility's control or by certified arborists.

Consistent with the height provision in Section 1 of the bill, a local government may not adopt an ordinance or land development regulation that requires the planting of a tree or other vegetation in an established right-or-way that achieves a height greater than 14 feet.

None of the provisions in s. 163.3209, F.S., are intended to supersede or nullify the terms of specific franchise agreements between an electric utility and a local government, and may not be construed to limit the franchising authority of a local government. Nor, does this section supersede local government ordinances or rules governing removal of specimen trees, historical trees, or trees within canopy road protection areas.

Section 3.
Electrical Substation Planning
The bill creates s. 186.0201, F.S., related to electrical substation planning. The bill clarifies that since electrical substations respond to development; their locations cannot be precisely planned years in advance. However annually on June 1, beginning the year after the effective date of this act, the electrical utilities are to notify the local regional planning councils of their current plans, over a three year period, within the local governments contained in each region. This information is advisory but must be included in the regional planning council's annual report.

Section 4.
This act shall take effect upon becoming law.

C. SECTION DIRECTORY:

Section 1. Creates s. 163.3208, F.S., relating to electrical substation approval process.

Section 2. Creates s. 163.3209, F.S., relating to electrical transmission and distribution line right-of-way maintenance.

Section 3. Creates s. 186.0201, F.S., relating to electrical substation planning.

Section 4. Provides and effective date.

[11] American National Standards Institute

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 bill appears to have a minimal fiscal impact on individual local governments due to the loss of tree trimming permit fees paid by electric utilities.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides that an electric utility is no longer required to obtain a permit or other approval from local government for vegetation management and tree trimming within an established right-of-way for an electric power line. There may also be some costs to the electric utilities for providing the regional planning councils with their substation siting plans.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   While some municipalities and counties may lose tree trimming permit fees paid by electric utilities, the amount of the permit fees paid to an individual municipality or county is expected to be negligible. Therefore, it appears that this bill likely qualifies for the "laws having an insignificant fiscal impact" exemption in Article VII, Section 18(d) of the Florida Constitution.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 3 of the bill references the annual report of the regional planning councils prepared pursuant to s. 186.513, F.S. Section 186.513, F.S., requires the regional planning councils to submit an annual report to "the department" and the local general purpose governments within its boundaries.

Existing law does not identify to which "department" the regional planning councils are directed to provide their annual report. Historically, the term "department" was identified as the Department of Community Affairs [See s. 160.03(6), F.S. (1980), which revisers changed to s. 160.003, F.S. (See Table of Section Changes By 1980 Legislative Sessions)]. The sections comprising former chapter 160 were transferred to chapter 186 by the editors incident to compiling the 1984 supplement to the Florida Statutes 1983. Then, ch. 84-257, s. 18, L.O.F., deleted s. 186.503(6), F.S., which provided: "'Department' means the department of community affairs."

This matter could be corrected by amending s. 186.513, F.S., to replace the word "department" with "state land planning agency as defined in s. 163.3164(20), F.S." The state land planning agency is defined as the Department of Community Affairs which is the agency originally defined, and in fact the agency to which the report have historically been submitted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 21, 2006, the Utilities & Telecommunications Committee adopted a strike-all amendment. The strike-all did the following:

- Provides a siting exception for historic preservation and conservation lands;
- Sets minimum setback requirements, if such requirements are not adopted by the local government;
- Provides that siting standards are on a going forward basis;
- Provides a deadline for approving a siting application;
- Provides that the bill does not affect the applicability and enforceability of any existing local regulatory land use procedures for conditional use or special exceptions which provide for public input if such procedures are in effect as of the act's effective date. However, in land use, conditional use, or special-exception review, the local government is limited to the standards and conditions adopted under s. 163.3208(2), F.S.
- Requires five days notice to local government before an electric utility does vegetation management activities within a right-of-way;
- Provides standards for vegetation maintenance practices;
- Provides that local governments may not adopt ordinances to require planting vegetation on rights-of-way or below aerial access points to substations that will grow in excess of 14 feet;
- Provides side clearance standards;
- Provides that s. 163.3209, F.S., does not supersede current franchise agreements or limit franchise authority;
- Provides that s. 163.3209, F.S., does not supersede ordinances governing the removal of certain trees;
- Requires the electric utilities to file their current plans to site substations with regional planning councils, and that information is to be included in the regional planning council's annual report.

CHAMBER ACTION

The Utilities & Telecommunications Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to electrical transmission and distribution; creating s. 163.3208, F.S.; providing legislative intent; providing criteria for adoption and enforcement by a local government of land development regulations for new electrical substations; providing that new substations are a permittable use in all land use categories and zoning districts within a utility's service territory; providing for exceptions; providing standards which apply if a local government does not adopt reasonable standards for substation siting; providing for application of certain local siting standards to applications received after public notice of the adoption of those standards; providing a timeframe and procedures for a local government to approve or deny an application for an electrical substation; providing that the application is deemed approved if not acted on within the timeframe; providing for application to a land use,

24 conditional use, or special-exception review of an
25 electrical substation; providing for public input;
26 creating s. 163.3209, F.S.; prohibiting local governments
27 from requiring any permits or approvals for certain
28 vegetation maintenance in an established electrical
29 transmission or distribution line right-of-way; providing
30 for a utility to give notice to the local government
31 before conducting such vegetation-maintenance activities;
32 providing for exceptions; requiring the utility to provide
33 its vegetation-maintenance plan to the local government
34 and discuss it with the local government; specifying
35 standards for vegetation maintenance; providing for
36 supervision of vegetation management activities; limiting
37 the height and space of vegetation that may be required by
38 a local government in an established right-of-way;
39 providing for application of specified requirements to
40 certain lines; providing for application to local
41 franchise authority and removal of certain trees; creating
42 s. 186.0201, F.S.; requiring electric utilities to notify
43 the regional planning council of plans to site electrical
44 substations; requiring the plans be included in the
45 regional planning council's annual report; providing an
46 effective date.
47
48 Be It Enacted by the Legislature of the State of Florida:
49
50 Section 1. Section 163.3208, Florida Statutes, is created
51 to read:

52 163.3208 Substation approval process.--
53 (1) It is the intent of the Legislature to maintain,
54 encourage, and ensure adequate and reliable electrical
55 infrastructure in the state. It is essential that electrical
56 infrastructure be constructed and maintained in various
57 locations in order to ensure the efficient and reliable delivery
58 of electric service.
59 (2) Electrical substations are a critical component of
60 electrical transmission and distribution. Local governments may
61 adopt and enforce reasonable land development regulations for
62 new substations addressing only setback, landscaping, buffering,
63 screening, and other aesthetic compatibility-based standards.
64 Vegetated buffers or screening beneath aerial access points to
65 the substation equipment may not be required to have a mature
66 height in excess of 14 feet. New substations shall be a
67 permittable use in all land use categories in the applicable
68 local government comprehensive plan and in zoning districts
69 within the service territory of a utility, except those
70 designated as preservation or conservation land on the future
71 land use map or in a duly adopted ordinance. If a local
72 government has not adopted reasonable standards for substation
73 siting in accordance with applicable adoption procedures,
74 including public hearings, the following standards apply:
75 (a) In nonresidential areas, the substation must comply
76 with the criteria for a setback and landscaped buffer area which
77 apply to other similar uses in that district.

78 (b) In residential areas, a setback of up to 100 feet
79 between the property boundary of the substation and permanent
80 equipment structures must be maintained as follows:
81 1. For setbacks between 100 feet and 50 feet, a landscaped
82 area having native trees and shrub material with a security
83 fence around the substation equipment must be installed,
84 creating an open green-space area.
85 2. For setbacks between 25 feet and 49 feet, a buffer wall
86 8 feet high or a fence 8 feet high with native landscaping must
87 be installed around the substation.
88 3. For setbacks of less than 25 feet, a decorative wall or
89 facade at least 10 feet in height with exterior native
90 landscaping must be installed around the substation.
91 (3) Standards for the siting of a substation that are
92 adopted after the effective date of this act do not apply to
93 applications for an electrical utility substation that were
94 submitted prior to notice of the adoption hearing by the local
95 government.
96 (4)(a) If a local government has adopted standards for the
97 siting of electrical substations within any of the land use and
98 zoning districts of the local government, the local government
99 shall approve or deny a properly completed application for a
100 permit to locate an electrical substation within the land use
101 and zoning district within 60 business days after the date the
102 properly completed application is declared complete in
103 accordance with the application procedures of the local
104 government, if issuance of such permit does not relieve the
105 applicant from complying with applicable federal or state laws

106 or rules and applicable local land development or building
107 rules. If the local government fails to approve or deny a
108 properly completed application for an electrical substation
109 within the timeframes set forth, the application shall be deemed
110 automatically approved and the applicant may proceed with
111 construction consistent with its application without
112 interference or penalty.
113 (b) The local government shall notify the permit applicant
114 within 30 business days after the date the application is
115 submitted as to whether the application is, for administrative
116 purposes only, properly completed and has been properly
117 submitted. Further determinations of completeness shall be
118 provided within 15 days after the receipt of additional
119 information. However, such determination is not deemed an
120 approval of the application.
121 (5) This section does not affect the applicability and
122 enforceability of any existing local regulatory land use
123 procedures for conditional use or special exceptions that
124 provide for public input in a workshop or informational format
125 if the procedures are in effect as of the effective date of this
126 section. However, in a land use, conditional use, or special-
127 exception review of an electrical substation, the local
128 government is limited to imposing those standards and conditions
129 previously adopted under subsection (2), and public input may be
130 provided in a workshop or informational format.
131 Section 2. Section 163.3209, Florida Statutes, is created
132 to read:

133 163.3209 Electrical transmission and distribution line
134 right-of-way maintenance.--After a right-of-way for any
135 electrical transmission or distribution line has been
136 established and constructed, a local government may not require
137 any permits or other approvals for vegetation maintenance and
138 tree pruning or trimming within the established right-of-way.
139 Before conducting vegetation-maintenance activities within an
140 established right-of-way, the utility shall provide the local
141 government with a minimum of 5 days' advance notice, except in
142 emergencies or when required to restore electric service. Upon
143 the request of the local government, the electric utility shall
144 meet with the local government to discuss and submit the
145 utility's vegetation-maintenance plan, including the utility's
146 trimming specifications and maintenance practices. Vegetation
147 maintenance shall conform to ANSI A300 (Part I)--2001 pruning
148 standards and ANSI Z133.1-2000 Pruning, Repairing, Maintaining,
149 and Removing Trees, and Cutting Brush--Safety Requirements.
150 Vegetation management conducted by utilities must be supervised
151 by qualified personnel from the electric utility or licensed
152 contractors under control of the utility or by certified
153 arborists certified by the International Society of
154 Arboriculture. A local government may not adopt an ordinance or
155 land development regulation that requires the planting of a tree
156 or other vegetation that will achieve a height greater than 14
157 feet in an established right-of-way for an electric utility or
158 intrude from the side closer than the clearance distance
159 specified in Table 2 of ANSI Z133.1-2000. For lines affected by
160 the North American Electric Reliability Council Standard, FAC

161 003.1 requirement R1.2 applies. This section does not supersede
162 or nullify the terms of specific franchise agreements between an
163 electric utility and a local government and may not be construed
164 to limit the franchising authority of a local government. This
165 section does not supersede local government ordinances or rules
166 governing removal of specimen trees, historical trees, or trees
167 within canopy road protection areas.
168 Section 3. Section 186.0201, Florida Statutes, is created
169 to read:
170 186.0201 Electrical substation planning.--Electrical
171 utility substations respond to development, and consequently
172 siting locations cannot be precisely planned years in advance.
173 On or before June 1 of every year after the effective date of
174 this act, the electric utilities having service areas within
175 each regional planning council shall notify the regional
176 planning council of the utilities' current plans over a 3-year
177 period to site electrical substations within the local
178 governments contained within each region. This information is
179 advisory and must be included in the annual report of the
180 regional planning council prepared pursuant to s. 186.513.
181 Section 4. This act shall take effect upon becoming a law.

Bill No. **HB 431 CS**

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
2 Committee
3 Representative(s) Littlefield offered the following:
4
5 **Amendment (with title amendment)**
6 Remove everything after the enacting clause and insert:
7 Section 1. Section 163.3207, Florida Statutes is created to
8 read:
9 163.3207 Substation approval process.
10 (1) It is the intent of the Legislature to maintain,
11 encourage, and assure adequate and reliable electrical
12 infrastructure in the state. It is essential that electric
13 infrastructure be constructed and maintained in various
14 locations in order to ensure the efficient and reliable delivery
15 of electric service. Electric infrastructure should be
16 constructed, to the maximum extent practicable, to achieve
17 compatibility with adjacent and surrounding land uses and the
18 criteria included in this section are intended to balance the
19 need for electricity with land use compatibility.
20 (2) The term "distribution electric substation" refers to
21 an electrical substation which takes electricity from the
22 transmission grid and converts it to a lower voltage so it can

23 be distributed to customers in the local area on the local
24 distribution grid through one or more distribution lines less
25 than 69 kilovolts in size.
26 (3) Electric substations are a critical component of
27 electric transmission and distribution. Local governments may
28 adopt and enforce reasonable land development regulations for
29 new distribution electric substations addressing only setback,
30 landscaping, buffering, screening, lighting and other aesthetic
31 compatibility-based standards. Vegetated buffers or screening
32 beneath aerial access points to the substation equipment shall
33 not be required to have a mature height in excess of 14 feet.
34 (4) New distribution electric substations shall be a
35 permitted use in all land use categories in the applicable local
36 government comprehensive plan and zoning districts within a
37 utility's service territory except those designated as
38 preservation, conservation or historic preservation on the
39 future land use map or duly adopted ordinance. If a local
40 government has not adopted reasonable standards for substation
41 siting in accordance with paragraph (3), the following standards
42 shall apply to new distribution electric substations:
43 (a) In non-residential areas, the substation must comply
44 with the setback and landscaped buffer area criteria applicable
45 to other similar uses in that district, if any.
46 (b) Unless the local government approves a lesser setback
47 or landscape requirement, in residential areas, a setback of up
48 to 100 feet between the substation property boundary and
49 permanent equipment structures shall be maintained as follows:
50 1. For setbacks between 100 feet and 50 feet, an open
51 green space shall be formed by installing native landscaping,
52 including trees and shrub material, consistent with the relevant
53 local government's land development regulations. Substation

54 equipment shall be protected by a security fence consistent with
55 the relevant local government's land development regulations.
56 2. For setbacks of less than 50 feet, an 8-foot buffer
57 wall or 8-foot fence with native landscaping consistent with the
58 relevant local government's regulations shall be installed
59 around the substation.
60 (5) If the application for a proposed distribution
61 electric substation demonstrates that the substation design is
62 consistent with the local government's applicable setback,
63 landscaping, buffering, screening and other aesthetic
64 compatibility-based standards, the application for development
65 approval for the substation shall be approved.
66 (6) Substation siting standards adopted after the
67 effective date of this act shall not apply to electric utility
68 substation applications that were submitted prior to the notice
69 of the local government's adoption hearing.
70 (7)(a) If a local government has adopted standards for the
71 siting of electric substations within any of the local
72 government's land use categories or zoning districts, the local
73 government shall grant or deny a properly completed application
74 for a permit to locate an electric substation within such land
75 use category or zoning district within 90 days after the date
76 the properly completed application is declared complete in
77 accordance with the applicable local government application
78 procedures. If the local government fails to grant or deny a
79 properly completed application for an electric substation within
80 the timeframes set forth, the application shall be deemed
81 automatically approved and the applicant may proceed with
82 construction consistent with its application without
83 interference or penalty. Issuance of such local permit does not
84 relieve the applicant from complying with applicable federal or

85 state laws or regulations and other applicable local land
86 development or building regulations, if any.
87 (b) The local government shall notify the permit applicant
88 within 30 days after the date the application is submitted as to
89 whether the application is, for administrative purposes only,
90 properly completed and has been properly submitted. Further
91 completeness determinations shall be provided within 15 days
92 from receipt of additional information. However, such
93 determination shall not be deemed as an approval of the
94 application.
95 (c) To be effective, a waiver of the timeframes set forth
96 in this paragraph must be voluntarily agreed to by the utility
97 applicant and the local government. A local government may
98 request, but not require, a waiver of the timeframes by the
99 applicant, except that, with respect to a specific application,
100 a one-time waiver may be required in the case of a declared
101 local, state, or federal emergency that directly affects the
102 administration of all permitting activities of the local
103 government.
104 (d) The local government may establish reasonable
105 timeframes within which the required information to cure the
106 application deficiency is to be provided or the application will
107 be considered withdrawn or closed.
108 Section 2. Section 163.3209, Florida Statutes, is created
109 to read:
110 163.3209 Electric transmission and distribution line
111 right-of-way maintenance.
112 After a right-of-way for any electric transmission or
113 distribution line has been established and constructed, no local
114 government shall require or apply any permits or other approvals
115 or code provisions for or related to vegetation maintenance and

116 tree pruning or trimming, within said established right-of-way.
117 The term "vegetation maintenance and tree pruning or trimming"
118 means the mowing of vegetation within the right-of-way, removal
119 of trees or brush within the right-of-way, and selective removal
120 of tree branches that extend within the right-of-way. The
121 provisions of this paragraph do not include the removal of trees
122 outside the right-of-way, which may be allowed in compliance
123 with applicable local ordinances. Prior to conducting scheduled
124 routine vegetation maintenance and tree pruning or trimming
125 activities within an established right-of-way, the utility shall
126 provide the local government with a minimum of 5 business days
127 advance notice. Such advance notice is not required for
128 vegetation maintenance and tree pruning or trimming required to
129 restore electric service or to avoid an imminent vegetation-
130 caused outage, or when performed at the request of the property
131 owner adjacent to the right-of-way, provided that the owner has
132 approval of the local government, if needed. Upon the request
133 of the local government, the electric utility shall meet with
134 the local government to discuss and submit the utility's
135 vegetation maintenance plan, including the utility's trimming
136 specifications and maintenance practices. Vegetation
137 maintenance and tree pruning or trimming conducted by utilities
138 shall conform to ANSI A300 (Part I) - 2001 pruning standards
139 and ANSI Z133.1-2000 Pruning, Repairing, Maintaining, and
140 Removing Trees, and Cutting Brush - Safety Requirements.
141 Vegetation maintenance and tree pruning or trimming conducted by
142 utilities will be supervised by qualified electric utility
143 personnel or licensed contractors trained to conduct vegetation
144 maintenance and tree trimming or pruning consistent with this
145 section or by Certified Arborists certified by the Certification
146 Program of the International Society of Arboriculture. In no

147 event may a local government adopt an ordinance or land
148 development regulation that requires the planting of a tree or
149 other vegetation that will achieve a height greater than 14 feet
150 in an established electric utility right-of-way or intrude from
151 the side closer than the clearance distance specified in Table 2
152 of ANSI Z133.1-2000 for lines affected by the North American
153 Electric Reliability Council Standard, FAC 003.1 requirement
154 R1.2. This paragraph shall not supersede or nullify the terms
155 of specific franchise agreements between an electric utility and
156 a local government, and shall not be construed to limit a local
157 government's franchising authority. This paragraph does not
158 supersede local government ordinances or regulations governing
159 pruning, trimming or removal of specimen or historical trees, as
160 defined in a local government's ordinances or regulations, or
161 trees within canopy road protection areas. This paragraph shall
162 not apply if a local government has adopted a written plan, with
163 concurrence from the applicable utility provider, specifically
164 for vegetation maintenance, tree pruning, tree removal, and tree
165 trimming within established rights-of-way.
166 Section 3. Section 186.800, Florida Statutes, is
167 created to read:
168 186.800 Electric substation planning--.
169 Electric utility substations respond to development and
170 consequently siting locations cannot be precisely planned years
171 in advance. Nevertheless, on or before June 1st of every year
172 after the effective date of this act, the electric utilities
173 with service areas within each regional planning council shall
174 notify the regional planning council of the utilities' current
175 plans over a 5 year period to site electric substations within
176 the local governments contained within each region, including an
177 identification of whether each electric substation planned

178 within a general area is a distribution or transmission electric
179 substation, a listing of the proposed substations' site acreage
180 needs and anticipated capacity, and maps showing general
181 locations of the planned electric substations. This information
182 is advisory and shall be included in the regional planning
183 council's annual report prepared pursuant to Section 186.513,
184 Florida Statutes and will be supplied directly to local
185 governments requesting the information.
186 Section 4. Nothing in this act is intended to supersede
187 the provisions of Chapter 403, Part II.
188 Section 5. Section 186.513, Florida Statutes, is amended
189 to read:
190 186.513 Reports.-- Each regional planning council shall
191 prepare and furnish an annual report on its activities to the
192 state land planning agency as defined in s. 163.3164(20)
193 ~~department~~ and the local general-purpose governments within its
194 boundaries and, upon payment as may be established by the
195 council, to any interested person. The regional planning
196 councils shall make a joint report and recommendations to
197 appropriate legislative committees.
198 Section 6. This act shall take effect upon becoming a law.
199
200
201 ========== T I T L E A M E N D M E N T ==========
202 Remove the entire title and insert:
203
204 A bill to be entitled
205 An act relating to electrical transmission and
206 distribution; creating s. 163.3207, F.S.; providing
207 legislative intent; providing a definition for
208 "distribution electric substation;" providing criteria for

209 adoption and enforcement by a local government of land
210 development regulations for new electrical substations;
211 providing that new substations are a permittable use in
212 all land use categories and zoning districts within a
213 utility's service territory; providing for exceptions;
214 providing standards which apply if a local government does
215 not adopt reasonable standards for substation siting;
216 providing for application of certain local siting
217 standards to applications received after public notice of
218 the adoption of those standards; providing a timeframe and
219 procedures for a local government to approve or deny an
220 application for an electrical substation; providing that
221 the application is deemed approved if not acted on within
222 the timeframe; providing new timeframes to be set by local
223 governments with respect to the provision of additional
224 information on the substation siting application;
225 providing for a waiver of the timeframes associated with
226 the review of a siting application; creating s. 163.3209,
227 F.S.; prohibiting local governments from requiring any
228 permits or approvals for certain vegetation maintenance in
229 an established electrical transmission or distribution
230 line right-of-way; providing for a utility to give notice
231 to the local government before conducting such vegetation-
232 maintenance activities; providing for exceptions;
233 requiring the utility to provide its vegetation-
234 maintenance plan to the local government and discuss it
235 with the local government; specifying standards for
236 vegetation maintenance; providing for supervision of
237 vegetation management activities; limiting the height and
238 space of vegetation that may be required by a local
239 government in an established right-of-way; providing for

240 application of specified requirements to certain lines;
241 providing for application to local franchise authority and
242 removal of certain trees; creating s. 186.800, F.S.;
243 requiring electric utilities to notify the regional
244 planning council of plans to site electrical substations;
245 requiring the plans be included in the regional planning
246 council's annual report; providing that nothing in this
247 act supersedes chapter 403, Part II; amending s. 186.513,
248 F.S., providing a correction to an agency reference;
249 providing an effective date.
250
251

SB 360 (2005) Glitches

Glitch Issue Areas

- **Inconsistent use of the term "proportionate share"**
  - Recommend changing to "proportionate fair-share mitigation."
- **Cross-reference clean-up**
  - Recommend making changes to correct inaccurate citations.
- **Funding adjustments**
  - Recommend considering adjustments.

Inconsistent Use of the Term "Proportionate Share"

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
5	163.3180(13)(g)8	"proportionate – share mitigation"
5	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Cross-reference clean-up s. 2 of the Act

- Correction: In s. 163.3177(13)(c)4, F.S., the cross-reference to "subsection (2)" should be "subsection (14)".
  - Explanation: The section addresses the topics which a local government must discuss as part of the workshops and public meetings for the development of a community vision. Specifically, this reference is to the designation of an urban service boundary, which is referred to in subsection (14), and not subsection (2).

Cross-reference clean-up
s. 5 of the Act

- **<u>Correction</u>: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6) should be "163.31777."**
  - <u>Explanation</u>: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements; and should rather refer to the entire section itself, s. 163.31777, F.S.

- **<u>Correction</u>: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32) should be "s. 163.3164(32)."**
  - <u>Explanation</u>: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of "financially feasible" which is found at s. 163.3164(32), F.S.

Cross-reference clean-up
s. 6 of the Act

- **<u>Correction</u>: In s. 163.3184(17), F.S., the citation to s. 163.31773(13) should be "s. 163.3177(13)."**
  - <u>Explanation</u>: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

Cross-reference clean-up
s. 12 of the Act

- **<u>Correction</u>: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) should be "s. 163.3180(9)."**
  - <u>Explanation</u>: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9) relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), relates to long-term transportation and school concurrency management systems.

Funding adjustments

- Transportation Funding
  - Non-recurring Strategic Intermodal System (SIS) Appropriation
  - SIB non-recurring transfer
- Education Funding
  - Classrooms for Kids appropriations
  - High Growth District Capital Outlay Assistance Grant Program
- Century Commission
  - Recurring appropriation

Funding Adjustments: Transportation

- **<u>FDOT non-recurring SIS appropriation for FY 2005-2006:</u> The Act appropriates $200 million for the 2005-2006 fiscal year to fund projects on the Strategic Intermodal System. The intended funding level was $175 million non-recurring to correspond with a one-time $175 million transfer.**
  - Recommend: Correct the 2005-2006 appropriation to be $175 million.

- **<u>FDOT SIB recurring transfer</u>: The Act contains language relating to a recurring appropriation for State Infrastructure Bank (SIB) in addition to $100M non-recurring for SIB appropriated correctly for FY 2005-2006.**
  - Recommend: Eliminate language relating to a recurring SIB appropriation.

Funding Adjustments: Education

- **<u>Classrooms for Kids appropriation</u>: The Act contains a recurring appropriation for the Classrooms for Kids program in the amount of $41.75 million. The Act also contains a $75 million dollar recurring transfer.**
  - Recommend: Increase the recurring appropriation to $75 million; and address the FY 2005-2006 short fall appropriation to the Classroom for Kids program by adding the difference of $33.25 million as a non-recurring appropriation in FY 2006-2007.

- **<u>High Growth District Capital Outlay Assistance Grant Program appropriation</u>: The Act contains a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program which the Governor vetoed.**
  - Recommend: Re-appropriate $30 million in recurring funds beginning FY 2006-2007.

Funding Adjustment: Century Commission

- **<u>Century Commission appropriation</u>: The Act contains both a non-recurring appropriation for FY 2005-2006 and a recurring transfer and appropriation of $250,000 for the Century Commission. The Governor vetoed the recurring appropriation.**
  - Recommend: Reenacting the $250,000 recurring appropriation beginning FY 2006-2007.

Post Session Review
CS/CS/CS/SB 360

January 2006

The Florida House of Representatives
Allan G. Bense, Speaker

State InfrastructureCouncil
Dave Russell, Chair

Growth Management Committee
Randy Johnson, Chair

EXECUTIVE SUMMARY

The Florida House of Representative's Growth Management Committee undertook a post session review of CS/CS/CS/SB 360 (SB 360) during the 2005 interim. The purpose of this project was to conduct a review of the bill with Senate staff, state agencies and interested parties to determine if additional legislation is necessary and what issues would be appropriate for inclusion into such legislation. This report discusses the project objective, methodology used, findings and recommendations.

Bill History

Senate Bill 360 (2005), which was codified as Chapter 2005-290, Laws of Florida (the Act), was the agreed vehicle for House Bill 1865 related to growth management incentives, and Senate Bill 360 related to infrastructure planning and funding. SB 360 resulted from the conference negotiations during the final days of the 2005 Legislative Session. The respective House and Senate bills envisioned significant changes to the state's growth management efforts and processes. As a result of the nature of the final negotiations, the bill does not fully give effect to either the House or the Senate approach to the issues raised during session and represents a compromise product.

Purpose of the Project

As the Act has numerous provisions that will not take effect until future dates, it appeared likely that as the provisions of the bill began to be studied and implemented by House and Senate staff; the Departments of Transportation, Education, and Community Affairs; and other interested parties, numerous suggestions would arise to improve the efforts begun in the bill. The purpose of this project was to conduct a review of the Act with Senate staff, state agencies, and interested parties to determine if additional legislation was necessary and what issues would be addressed in such legislation.

METHODOLOGY

Committee staff widely distributed a request for comments, suggestions and recommendations and received replies from various interested parties through November 2005.[1] Staff then reviewed that input and sorted the input into the following three categories.[2]

- Glitch – Those matters that represent technical and other unintentional errors that should be corrected.
- Policy Refinements – Those matters that represent policy differences between the House and the Senate and that the Members may wish to further consider and address.
- New Issues – Those matters that represent the next steps in the effort to revise and update Florida's growth management efforts begun during the 2005 Legislative Session.

In conjunction with the Committee's work on this interim project, the Speaker approved the Committee to work on three proposed committee bills (PCB) that follow the general description of the categories identified above.

[1] Attachment 1 details all of those individuals and entities that supplied comments, suggestions and recommendations.
[2] Attachment 2 contains a summary of relevant comments, suggestions and recommendations sorted into the three categories.

FINDINGS

Committee staff found that their review of the Act, and the sorting of comments, suggestions, and recommendations, resulted in relatively few matters that appear to naturally group into the "glitch" category. Those matters that appeared to be unintentional errors that should be addressed are detailed below as citation errors, nomenclature, and funding issues. A summary of relevant comments received by Committee staff are found in Attachment 2 of this report and may serve as a guide to development of the PCBs for Policy Refinements and for New Issues.

- **Citation errors:** Four citation errors were identified:
  - Section 5 of the Act contains two erroneous citations.
    - Correction: In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6) should be "163.31777."

      Explanation: Section 163.3180(13)(f)1., F.S., relates to an exception for municipalities from being a signatory to the public school interlocal agreement. The citation in question was intended to reference other provisions of the statute that established the requirement to enter into the interlocal agreement. The erroneous citation refers to an exemption from the public school interlocal agreement requirements; and should rather refer to the entire section itself, s. 163.31777, F.S.

    - Correction: In s. 163.3180(16)(b)1., F.S., the citation to s. 163.164(32) should be "s. 163.3164(32)."

      Explanation: Section 163.164(32), F.S., does not exist. The citation was intended to refer to the definition of "financially feasible" which is found at s. 163.3164(32), F.S.

  - Section 6 of the Act contains one erroneous citation.
    - Correction: In s. 163.3184(17), F.S., the citation to s. 163.31773(13) should be "s. 163.3177(13)."

Explanation: Section 163.31773 does not exist. The reference is to a local government that has adopted a community vision and an urban service boundary. Section 163.3177(13) and (14), F.S., relate to community vision and urban service boundaries, respectively.

- Section 12 of the Act contains one erroneous citation.

  - Correction: In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) should be "s. 163.3180(9)."

    Explanation: Section 339.2819(4)(a)2., F.S., relates to requirements for projects to be funded through the Transportation Regional Incentive Program. The citation in question was intended to relate to the statutory authority for a local government to implement a long-term concurrency management system. The erroneous citation, s. 163.3177(9) relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), relates to long-term transportation and school concurrency management systems.

- **Nomenclature:** The Act contains inconsistent use of the term "proportionate share." The Act uses the following terms to represent "proportionate share":

  - proportionate fair-share mitigation
  - proportionate share
  - mitigation proportionate to
  - proportionate share mitigation
  - proportionate fair-share contributions
  - proportionate share agreement.

Attachment 3 details the inconsistent use of the term "proportionate share" and identifies the location of each term in the Act. In drafting PCB GM-06-01, Committee staff has adopted the term "proportionate fair-share mitigation" as it appeared to be the most inclusive term to capture the concepts discussed during session and included in the Act.

- **Funding Issues**:

  - FDOT nonrecurring SIS appropriation for FY 2005-2006: The Act appropriates $200 million for the 2005-2006 fiscal year to fund projects on the Strategic Intermodal System.[3] The intended funding level was $175 million and the Committee may wish to consider amending ch. 2005-290, L.O.F., to correct this error. (FDOT is the Florida Department of Transportation; SIS is the State Intermodal System; FY is fiscal year).

  - FDOT SIB recurring transfer: The Act contains a recurring transfer into the State Infrastructure Bank (SIB) whereas the appropriation was a nonrecurring appropriation for FY 2005-2006. The Committee may wish to amend ch. 2005-290, L.O.F., to repeal the recurring transfer.[4]

  - Classrooms for Kids appropriation: The Act contains both a recurring appropriation for the Classrooms for Kids program in the amount of $41.65 million;[5] and a $75 million dollar recurring transfer.[6] These appear to be a discontinuity as more funds are being transferred than appropriated. The Committee may wish to amend ch. 2005-290, L.O.F., to increase the recurring appropriation to $75 million; and to address the FY 2005-2006 short fall appropriation to the Classroom for Kids program by adding the difference of $33.35 million as a nonrecurring appropriation in FY 2006-2007.[7]

  - High Growth District Capital Outlay Assistance Grant Program appropriation: The Act contains a $30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program which the Governor vetoed.[8] The Committee may wish to reenact that appropriation and perhaps amend the program as established in s. 1013.738, F.S., as created in ch. 2005-290, L.O.F. The draft PCB includes only the reenactment of the appropriation but not yet any amendments to s. 1013.738, F.S., pending further direction from the Committee.

  - School Concurrency Task Force appropriation: The Act contains a $50,000 appropriation to fund the School Concurrency Task Force.[9] The Governor vetoed the appropriation. The Committee may wish to consider whether or not to reenact this appropriation..

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[3] See s. 27 of ch. 2005-290, L.O.F.
[4] See s. 25 of ch. 2005-290, L.O.F.
[5] See s. 25 of ch. 2005-290, L.O.F.
[6] See s. 26 of ch. 2005-290, L.O.F.
[7] See s. 25 of ch. 2005-290, L.O.F.
[8] See s. 25 of ch. 2005-290, L.O.F.
[9] See s. 27 of ch. 2005-290, L.O.F.

- Century Commission appropriation: The Act contains both a nonrecurring appropriation for FY 2005-2006 and a recurring transfer and appropriation of $250,000 for the Century Commission.[10] The Governor vetoed the recurring appropriation. Therefore, the Committee may wish to address the recurring transfer with the absence of a matching recurring appropriation for the Century Commission. The draft PCB includes only the FY 2006-2007 appropriation pending further direction from the Committee regarding a recurring appropriation.

[10] See s. 40 of ch. 2005-290, L.O.F.

RECOMMENDATIONS

Based upon Committee staff review of the Act and the comments, suggestions, and recommendations of interested parties, the following options are offered for consideration by the Committee.

Option 1: Consider those matters identified as Glitches and give staff direction regarding drafting of PCB GM-06-01 for the purpose of correcting errors contained in the Act.

Option 2: Consider those matters identified as Policy Refinement and give staff direction regarding drafting of PCB GM-06-02 to address those matters included in the Act which may need some refinement.

Option 3: Consider those matters identified as New Issues, engage stakeholders in discussion of those matters, and give staff direction regarding the drafting of PCB GM-06-03 to address those matters representing the next steps in the effort to revise and update Florida's growth management efforts begun during the 2005 Legislative Session.

Option 4: Take no action at this time.

Attachment 1: Individuals and Entities Supplying Comments, Suggestions and Recommendations

Commenter	Entity Represented if other than self
Fred Goodrow, AICP Chief, Comprehensive Planning Division	Tallahassee/Leon County Planning Dept.
Janet E. Bowman, Legal Director 1000 Friends of Florida	1000 Friends of Florida
Linda S. Adkins Director of Government Relations Orange County	Orange County
Vern Pickup-Crawford, Consultant	Palm Beach School District
Sheri Coven Executive Director	Florida Chapter American Planning Association
Andrew H. McLeod, Director Florida Government Affairs	The Trust for Public Land
Bob Hunter, Executive Director	Hillsborough County City-County Planning Commission
Richard J. Logan, AIA Member of the Board of Directors MPA Architects, Inc.	Florida Association of the American Institute of Architects
James V. Mudd, County Manager Collier County	Collier County
Rebecca O'Hara, Asst. General Counsel	Florida League of Cities, Inc.
Eric Poole,	Florida Association of Counties
Robert Apgar, Esq.	
Wade L. Hopping, Esq. Hopping Green & Sams	Association of Florida Community Developers
Kathy Baughman McLeod, Consultant Baughman McLeod Associates	Florida Recreation and Parks Association
David E. Ramba, Esq. Lewis, Longman & Walker, P.A.	The Bonita Bay Group & Seminole Improvement District
Vern Pick-up Crawford, Consultant	Palm Beach School District
Bob Rhodes, Esq.	Not indicated.
Cari Roth, Esq. Bryant Miller & Olive, P.A.	Not indicated.
Douglas J. Sale, Esq., Harrison, Sale, McCloy & Thompson Chtd.	Not indicated.

Attachment 2: Summary of Relevant Comments, Suggestions, and Recommendations Sorted into Categories

ATTACHMENT 3: INCONSISTENT USE OF THE TERM "PROPORTIONATE SHARE"

Act Section	Statute Section	Term(s) Used
1	163.3164(32)	"proportionate share"
5	163.3180(13)(e)	"mitigation proportionate to" & "proportionate-share mitigation"
5	163.3180(13)(e)1	"proportionate – share mitigation"
5	163.3180(13)(e)2	"proportionate – share mitigation"
5	163.3180(13)(e)3	"proportionate – share mitigation"
5	163.3180(13)(g)8	"proportionate – share mitigation"
5	163.3180(16)	"proportionate fair – share mitigation"
5	163.3180(16)(a)	"proportionate fair – share mitigation"
5	163.3180(16)(b)1	"proportionate fair – share mitigation" & "proportionate fair – share contributions"
5	163.3180(16)(b)2	"proportionate fair-share mitigation"
5	163.3180(16)(c)	"proportionate fair – share mitigation" & "proportionate fair-share contribution"
5	163.3180(16)(f)	"proportionate share agreement" & "proportionate share"
17	380.06(24)(l), (m), & (n)	"proportionate share"

Attachment 2: Summary of Relevant Comments, Suggestions, and Recommendations Sorted into Categories

Attachment 1 represents a summarized version of the relevant comments, suggestions, and recommendations received from interested parties. The volume of comments. suggestions, and recommendations received by the Committee does not lend itself to replication in this tabular format. Therefore, Committee staff reviewed them in light of ch. 2005-290, L.O.F.; included the most relevant input; and summarized them by subject category.

Glitches	Policy Refinements	New Issues
Citation errors: ▪ In s. 163.3180(13)(f)1. F.S., the citation to 163.31777(6) should be 163.31777. ▪ In s. 163.3180(16)(b)1., F.S., the citation to 163.164(32) should be 163.3164(32). ▪ In s. 163.3184(17), F.S., the citation to 163.31773(13) should be 163.3177(13) ▪ In s. 339.2819(4)(a)2., F.S., the citation to s. 163.3177(9) should be 163.3180(9).	**Urban Infill Incentives:** Strengthen urban infill incentives and continue to address disincentives already in state law and reglatory provisions. (Staff)	**Realignment of Regional Boundaries:** Consider the OPPAGA Study for possible action. (Staff)
Nomenclature: Proportionate share terminology - Adopt a single term for various nomenclature used for the proportinate share concept.	**Capital Improvement Element/Plan:** ▪ Concern for DCA capability to review 450 local government CIEs all being due to DCA by 12/1/07. (LLW) ▪ Require multiple utility providers for new areas of development to enter into interlocal agreements as component of CIE. (LLW) ▪ Annual update of CIE may not be necessary for some 300-400 smaller local governments - Yeatman from 10/20/05 Lakeland DCA Workshop ▪ Concern that allowing DCA to approve project removal from the CIP gives DCA the ability to require local governments to make up project funding shortfalls from the ad valorem revenues.	**Impact Fees:** Consider report of the Florida Impact Fee Review Task Force for possible action. (Staff)

PECO funds: Correct education $ from 2005-06	**Proportinate share:** ▪ Provision of statutory authority for local governments to include inflationary and contingency factors in their prop share methodlogies. Chair 10-26-05. ▪ Clarify scope/parameters of FDOT proportionate share review on SIS roads: ▪ Limited FDOT right to approve development impacts to SIS facilities to those instances in which impacts to SIS exceed a certain percentage of capacity level. (Pappas) ▪ Provide a timeframe within which FDOT must accept or reject a mitigation plan presented by local government. (Pappas) ▪ Provide guidance as to criteria for the appropriate grounds for rejection of a proportionate share mitigation by FDOT. (Pappas) ▪ Provide for automatic approval if FDOT exceeds the the time limit or fail to specify the appropriate grounds for rejection. (Pappas)	**Annexation** - Reconsider language contained in HB 1495 (2005).
	Century Commission 1. Stable funding. 2. Consider adding additional Board appointments.	**Regionalism** - Consider ways to incentivize various regional thinking activities.

	3d party challenge to CIE/comp plan re financial feasibility requirement (HGS, LLW, FLC): Possible solutions: ▪ Moratorium not triggered by petition filing - No development moratorium until Administration Commission final determination. (HGS) ▪ Exempt DRI from comp plan prohibition where there is a financial feasibility challenge. (HGS) ▪ Require petitioner to post bond - allow attorneys fees for frivolous law suits. (HGS)	**County Preemption:** Consider addressing charter county preemptions over municipal decisions/actions.
	Long Term Concurrency Management Plans: ▪ 10-15 years is an unreasonbly long time frame (Collier). ▪ Give more guidance/direction for long term management plans (??).Explicitedly recognize local governments ability to rely upon anticipated revenues over the long term management period (Apgar, Pappas).	**Affordable Housing:** ▪ Incentivize provision of affordable housing concurrent with development. ▪ Incentivize provision of essential employee (workforce or gap) housing.
	"Financial feasibility" definition, s. 163.3164(32), F.S.: ▪ Clarify last sentence to make it clear that proportionate share applies to specifc infrastructure and not county wide. (Hillsborough, FAPA) ▪ "Committed sources for years 1-3" and "available from committed sources or planned sources for years 4-5" ▪ Definition leaves local governments vulnerable to pay for extrajurisdictional traffic impacts - consider redefining to exempt local governments from being responsible for transportation LOS problems caused extrajurisdicitonally. (FAPA)	

	Rural Land Stewardship: ▪ Requiring RLS areas to include affordable housing in the receiving area could result in disallowing appropriate provision of off-site affordable housing. (Collier) ▪ Ensure that annexations cannot undermine rural land stewardship sending and receivng areas previously established under a county comrpehensive plan. (TFDF)	
	Community Vision: ▪ Add "creation and development of neighborhood and community parks and outdoor recreation opportunites" to workshop topics. - s. 163.3177(13)(b), F.S. FRPA)	
	School Concurrency: ▪ Increase linkage between school capacity and comp plan amendments by stating that local government may deny comp plan amendment based on school capacity. (FAPA) ▪ Give school boards a voting seat on the local planning agency. (FAPA)	
	Water Concurrency: ▪ Provide specific consequence (i.e., building permit denial) re lack of water capacity. (FAPA)	

	Transportation Concurrency: ▪ Add large scale developments to the list of areas in which local government may grant a transportation concurrency exception. (LLW) ▪ Concern that local governments can withhold the proportinate share mitigation options by not including the impacted transportation facility segment(s) for funding in the 5-year schedule of capital improvements. ▪ Consider allowing stricter local concurrency standards. (Collier) ▪ Consider adding large scale developments as permissible for local grant of a transportation concurrency exception area.	

Developmental of Regional. Impact

Growth Management Committee

Tuesday, March 14, 2005
2:00 PM – 4:00 PM
212 Knott

ADDENDUM A

Allan G. Bense
Speaker

Randy Johnson
Chair

Bill No. **431 CS**

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) M. Davis offered the following:
3
4 **Amendment 1 to Strike All Amendment by Representative**
5 **Littlefield (with directory and title amendments)**
6 Remove line(s) 9 and insert:
7 163.3208 Substation approval process.
8
9 ========== D I R E C T O R Y A M E N D M E N T ==========
10 Remove line(s) 7 and insert:
11 Section 1. Section 163.3208, Florida Statutes is created to
12
13 ========== T I T L E A M E N D M E N T ==========
14 Remove line(s) 206 and insert:
15 distribution; creating s. 163.3208, F.S.; providing

Bill No. **431 CS**

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) M. Davis offered the following:
3
4 **Amendment 2 to Strike All Amendment by Representative**
5 **Littlefield (with directory and title amendments)**
6 Remove line(s) 168 and insert:
7 186.0201 Electric substation planning --.
8
9 ========== D I R E C T O R Y A M E N D M E N T ==========
10 Remove line(s) 166 and insert:
11 Section 3. Section 186.0201, Florida Statutes is
12
13 ========== T I T L E A M E N D M E N T ==========
14 Remove line(s) 242 and insert:
15 removal of certain trees; creating s. 186.0201, F.S.;