

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

**BILL:** CS/SB 758

**SPONSOR:** Comprehensive Planning, Local and Military Affairs Committee, Senator Lee and others

**SUBJECT:** Growth Management

**DATE:** February 7, 2000                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill creates the Grow Smart Florida Study Commission, a 25-member committee appointed to review Florida’s system of growth management and make recommendations to the Governor, President of the Senate and Speaker of the House by February 1, 2001.

The bill appropriates \$250,000 of general revenue to the Department of Community Affairs (DCA) to administer the commission.

**II. Present Situation:**

Florida has a system of growth management that includes: the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; ss. 163.3161-163.3244, F.S.; chapter 380, F.S., Land and Water Management, which includes the Development of Regional Impact and Areas of Critical State Concern programs; chapter 186, F.S., establishing regional planning councils and requiring the development of state and regional plans; and chapter 187, F.S., the State Comprehensive Plan.

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, (“Act”) ss. 163.3161-163.3244, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements element; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the department was required to adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. Such minimum criteria must require that the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental

coordination; and that the elements identify procedures for evaluating the implementation of the plan. The original minimum criteria rule for reviewing local comprehensive plans and plan amendments was adopted by the department on March 6, 1986 as Rule 9J-5, Florida Administrative Code, (F.A.C.).

Chapter 380, F.S., includes the Development of Regional Impact (DRI) program, enacted as part of the Florida Environmental Land and Water Management Act of 1972. The DRI Program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical thresholds are identified in s. 380.0651, F.S., and Rule 28-24, F.A.C.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a substantial likelihood of additional regional impact, or any type of regional impact constitutes a “substantial deviation” which requires further DRI review and requires a new or amended local development order. The statute sets out criteria for determining when certain changes are to be considered substantial deviations without need for a hearing, and provides that all such changes are considered cumulatively.

Chapter 186, F.S., provides for the creation of 11 regional planning councils (RPCs) and for the adoption of strategic regional policy plans by the RPCs. These strategic regional policy plans must be consistent with the state comprehensive plan.

The state comprehensive plan, chapter 187, F.S., was enacted in 1985, to provide long-range guidance for the orderly, social, economic, and physical growth of the state. The plan includes twenty-six goals covering subjects that include: for example, land use; urban and downtown revitalization; public facilities; transportation; water resources; and natural systems and recreational lands. By October 1st of each odd-numbered year, the Governor’s Office is required to prepare any proposed revisions to the state comprehensive plan deemed necessary and present proposed revisions to the Administration Commission. The Administration Commission is then required to review such recommendations and forward to the Legislature any proposed amendments approved by the Commission.

Chapter 98-176, Laws of Florida, required the Governor to appoint a committee to review the comprehensive plan and advise him on changes that were appropriate to include in the biannual review scheduled to occur in 1999. To date, this committee has not been appointed or convened by the Governor.

Over the years, a number of blue-ribbon study commissions have examined problems associated with growth management in Florida. In 1972, the Florida Legislature, pursuant to s. 380.09(5), F.S. (1972), created the Florida Environmental Land Management Study Committee, which issued a final report in 1973. Included in its recommendations was a proposal that the Legislature should adopt a “Local Government Comprehensive Planning Act of 1974,” requiring each county and local government to adopt a local government comprehensive plan. In 1982, Governor Graham created, by executive order 82-95, the Second Environmental Land Management Study Committee (ELMS II). The ELMS II Committee issued its final report in February 1984 which

recommended the adoption of state and regional comprehensive plans and the requirement that local plans must be consistent with these state and regional plans. Many of the recommendations of the ELMS II Committee were enacted into law as part of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985.

In 1991 Governor Chiles created by Executive Order 91-291, the third Environmental Land Management Study Committee (ELMS III). The ELMS III Committee issued a final report in December 1992 which recommended a number of adjustments to the Local Government Comprehensive Planning and Land Development Regulation Act of 1985. Some of these recommendations included: improving the intergovernmental coordination element of local comprehensive plans as part of eliminating the Development of Regional Impact (DRI) process; the adoption by the state of a strategic growth and development plan; and adjustments to the review process for local comprehensive plan amendments.

### **III. Effect of Proposed Changes:**

The bill creates the Grow Smart Florida Study Commission which is charged with reviewing the operation of Florida's growth management system, including the operation and implementation of chapters 163, 186, 187 and 380, F.S.

The commission is to be composed of 25 members including 10 members appointed by the Governor, 7 members appointed by the Senate President, 7 members appointed by the Speaker of the House, and the Secretary of DCA. In addition, the Secretaries of the Departments of Environmental Protection & Transportation and the Executive Director of the Fish & Wildlife Conservation Commission are to serve on the commission as ex-officio nonvoting members.

The bill creates five specific groupings of interests to be represented in the appointments of the Governor, Senate President and Speaker of the House:

- Business interests: for example, development; agricultural; real estate and forestry/silviculture.
- Environmental interests: for example, environmental justice groups; resource-based conservation and outdoor conservation groups, and environmental quality and conservation groups.
- Community participants: for example, citizen groups; not-for-profit community associations; citizen planners; and affordable housing groups.
- Local and regional governments: for example, municipalities; counties; special districts; metropolitan planning organizations; and regional planning councils.
- Growth management and planning specialists: for example, professional planners; attorneys; engineers; and architects.

The Governor makes two appointments from each group and the Senate President and Speaker of the House select one appointment from each group, in addition to selecting two members from their respective membership.

The bill requires the appointments to the commission to be made by July 1, 2000, with the first meeting to be held no later than August 1, 2000. The chair must be elected at the first meeting by a majority vote of the membership. At least six public hearings will be held by the committee in different regions of the state to solicit public input.

Action of the commission is not binding unless taken by a two-thirds vote of the members present. However, a quorum must be present in order for the commission to take formal action.

The commission is charged with issuing a final report by February 1, 2001 which contains specific legislative recommendations to improve Florida's land and water resource management and growth-management programs. The bill identifies the following issues as appropriate issues for the commission to evaluate in making its recommendations:

- Identification of the goals and desired outcomes of state, regional and local comprehensive planning.
- Identification of compelling state interests as part of the State Comprehensive Plan.
- The enforcement of local plan provisions.
- The appropriate relationship between infrastructure funding and comprehensive planning.
- The appropriate role of the development-of-regional-impact process in the context of implementing local government comprehensive planning.
- The role and character of regional units of government and metropolitan planning organizations and their relationships to state and local government.
- Methods of accomplishing intergovernmental coordination.
- The relationship between local government comprehensive plans, annexations, and joint planning agreements between cities and counties.
- Assuring concurrency in an efficient, predictable and reasonable manner.
- The content requirements for Evaluation and Appraisal Reports and recommended procedures for their review by the DCA.
- Review of the effectiveness of state pilot projects such as the Sustainable Communities Program, Sector Planning, and Small-Scale Amendments.
- Citizen participation and challenges to local-government comprehensive plans, plan amendments, development orders, and land development regulations.

- State review and approval of local-government comprehensive plan amendments.
- The process of appealing development order and comprehensive plan amendment decisions, including the appropriate role of the Governor and Cabinet.
- Development of a growth management rural policy.

An executive director is to be selected by the Governor, subject to the approval of the commission. In addition, DCA is directed to provide other consultants and staff as needed. Governor's agencies are directed to assist and cooperate with the commission. The department shall reimburse commission members, and the members of any technical advisory committee that is appointed for travel and per diem expenses.

The commission shall continue in existence until its objectives are achieved, but no later than February 1, 2001.

The bill appropriates \$250,000 from the General Revenue Fund to DCA's Operating Trust Fund to fund the activities of the commission.

The bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

DCA will incur administrative expenses in staffing the operation of the Grow Smart Florida Study Commission, and reimbursing the travel and per diem cost of commission members. The bill appropriates \$250,000 to the department to cover these expenses.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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