

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1865 CS PCB GM 05-01 Growth Management Incentive Act of 2005

SPONSOR(S): Growth Management Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	9 Y, 0 N	Grayson	Grayson
1) Local Government Council	8 Y, 0 N, w/CS	Camechis	Hamby
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 1865 is an effort to address statewide and regionally significant growth management issues by creating a regional pilot project in the "Growth Management Incentive Act of 2005" and creating the "Century Commission", a planning-oriented commission.

The bill establishes a pilot project to "incentivize" regional solutions and strategies to address, resolve, or prevent problems related to three specific growth management issues:

- Educational infrastructure to support existing development and projected population growth;
- Adequacy of transportation facilities not sufficiently addressed by the Strategic Intermodal System; and
- Water supply or quality.

The bill creates the Century Commission, a standing body to help Floridians "envision and plan their collective future with an eye towards both 20-year and 50-year horizons".

The bill contains two direct and one indirect appropriations: \$200,000 nonrecurring General Revenue to the Department of Community Affairs for staffing and other costs associated with the pilot project; \$250,000 General Revenue to the Department of Community Affairs for staffing and other assistance in support of the Century Commission; and an indeterminate amount as provided in the 2005/2006 General Appropriations Act to fund the incentive pilot project.

The bill is effective upon becoming law, except for the appropriations which have effective dates of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government. The bill “incentivizes” collaborative regional public-private efforts to address certain growth management issues. As these collaborative efforts increase the need for governmental programs to address these same issues may be reduced. The bill also creates two governmental bodies, the Regional Planning Governing Board and the Century Commission.

Safeguard Individual Liberty. The bill “incentivizes” private organizations to participate and organize local and regional efforts to address or resolve statewide and regional growth management issues in a manner different than through traditional top-down methods.

B. EFFECT OF PROPOSED CHANGES:

This bill creates two efforts in tandem to address statewide and regionally significant growth management issues. The bill creates both an “incentivized” regional pilot project, the “Growth Management Incentive Act of 2005”; and creates s. 163.3247, F.S., the “Century Commission Act,” a planning-oriented, commission.

GROWTH MANAGEMENT INCENTIVE ACT OF 2005

The bill creates the Growth Management Incentive Act of 2005 creating a pilot project to “incentivize” regional solutions and strategies to address or resolve statewide or regionally significant issues relating to one or more of the following specific “statewide or regionally significant issues”:

- Educational infrastructure to support existing development and projected population growth;
- Adequacy of transportation facilities not sufficiently addressed by the Strategic Intermodal System; and
- Water supply or quality.

The bill encourages looking beyond jurisdictional lines and for solutions and strategies to mutual issues that cross traditional jurisdictional boundaries.

Incentive Funds: The bill provides for the earmarking of fixed capital outlay funds, as provided in the 2005/2006 General Appropriations Act, to be used to incentivize regional efforts related to the issues identified above.

Designation: The bill provides that any “regional entity” as defined in the act may, by August 1, 2005, request that the Governor designate a “regional planning area” (RPA), a “regional taskforce,” and a specific set of statewide or regionally significant issues, for the purpose of developing a collaborative regional effort that will propose and implement cost-shared projects to address or resolve some aspect(s) of the designated issues for that RPA.

The bill provides that the Governor will designate by Executive Order five such RPAs along with the regional taskforce and specific statewide or regionally significant issues for that RPA, by October 1, 2005. One of the designated areas must include the Florida Keys Area, a designated area of critical state concern.

Report and Funding Requests: The bill provides then that the five designated RPA regional taskforces will work to produce a report and incentive fund request(s) with solutions or strategies to address or resolve the specific statewide or regionally significant issues designated in the RPA Executive Order. The report and related incentive funding requests will be delivered to the Regional Planning Area Governing Board (RPA Governing Board) by August 31, 2006. The RPA Governing board shall consist

of the members of the Florida Communities Trust Governing Board (the Secretaries of the Department of Community Affairs [DCA], and the Department of Environmental Protection, and four public members appointed by the Governor.- this governing board is already in existence and presently reviews, ranks and awards certain land acquisition funds), the Secretary of the Department of Transportation, and the Commissioner of Education.

Review, Ranking and Award: The bill provides that the RPA Governing Board will review, rank and award the incentive funds based upon certain eligibility and priority ranking criteria included in subsections (11) and (12) of Section 1 of the bill.

Eligibility Criteria. The bill provides four basic criteria for eligible incentive fund projects. Eligible projects shall meet or exceed the following criteria:

- Propose a regional strategy or solution that includes specific actions to resolve a current or prevent a future, problem identified with one or more of the statewide or regionally significant priority issues. The strategy or solution shall be based upon current scientific, economic, demographic, and financial information.
- Propose a solution or strategy consistent with or supportive of, the region's character and future vision.
- Provide a financially feasible funding proposal utilizing incentive fixed capital outlay funds and a match of no less than 50% from local and private funds.
- Provide an achievable action plan that includes evidence of support from participating individuals or entities.

Priority Ranking Criteria. The BILL provides that an incentive funding request will receive priority ranking to the extent it addresses 14 specific priority ranking criteria as follows:

- Reduces an infrastructure backlog or provides infrastructure to address the statewide or regionally significant issue.
- Promotes efficient land use and use of existing and planned infrastructure.
- Provides an opportunity to correct existing, or avoid future, inefficient land use patterns.
- Provides solutions or strategies to one or more statewide or regionally significant issues in more than one jurisdiction.
- Combines solutions, strategies, and funding requests, across regional boundaries.
- Provides for the implementation, within a reasonable timeframe, of amendments to affected comprehensive plans and land development regulations to effectuate the project.
- Provides an opportunity to address or reduce the level of threat to significant natural resources resulting from growth and development pressures.
- Public participation in the visioning or other processes that led up to the report and incentive funding request submittal.
- Furthers collaborative, innovative, or creative cross jurisdictional efforts to solve statewide or regionally significant issues.
- Integrates, supports, or furthers elements of the affected local or other comprehensive plan or plans.
- Collaboration with relevant federal, state, regional, and local agencies.
- Minimizes stress on water resources.
- Proposes shared use of facilities.
- Utilizes information technology to provide for more efficient and effective data information collection, analysis, utilization, and sharing.

Reporting: The bill provides for after-action reports from both the RPA Governing Board to the Governor, President of the Senate, and the Speaker of the House of Representatives; and the individual RPA regional task forces, which will be delivered to the Secretary of the DCA. The Regional Planning Area Governing Board must address certain issues in its final report, as appropriate, including recommendations regarding intergovernmental cooperation, dedicated sources of funding for infrastructure, and the need for balancing environmental protection with future growth.

Duration of the RPA Governing Board: The bill provides that the RPA Governing Board is abolished after the delivery of the required report.

Staffing and Costs Appropriation: The bill provides a \$200,000 nonrecurring appropriation from General Revenue (GR) to the Department of Community Affairs for staffing and other costs associated with the pilot project.

CENTURY COMMISSION ACT

The bill creates the Century Commission Act in which the Century Commission is created. The Commission is a standing body to help Floridians envision and plan their collective future with an eye towards both 20-year and 50-year horizons.

The bill provides legislative findings and intent making the following statements.

- The state's population is expected to more than double in the next 100 years. This population increase will coincide with impacts to state's natural resources and infrastructure.
- It is in the best interests of the people of Florida to ensure sound planning for the proper placement of this growth and for protection of the state's land, water, and other natural resources essential to our collective quality of life and a strong economy.
- The state's growth management system should foster economic stability through:
 - regional solutions and strategies;
 - urban renewal and infill;
 - continued viability of agricultural economies;
 - allowing for rural economic development and protecting unique characteristics of rural areas;
 - reducing the complexity of regulatory processes while carrying out the intent of such laws; and
 - encouraging greater citizen participation.

Organization: The bill provides that the Century Commission shall consist of nine members appointed three each by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Governor shall designate the chair. Each member will serve a four year term, except initially that three of the members, one from each of the appointing authorities, will serve only two-year, three will serve four-year, and three will serve six-year, terms to allow for staggered future terms. Appointments are to be made by October 1, 2005. Members may serve a maximum of 6 years. A quorum consists of a majority of the voting members. Members each represent one vote; and the binding action of the commission is by a three-fifths vote of the members present.

Meetings: The bill provides that the first meeting will be held no later than December 1, 2005; and that the commission shall meet at the call of the chair, but at least three times a year thereafter in different regions of the state to solicit public and other input on issues to be considered.

Per Diem: The bill provides that members shall serve without compensation but are entitled to receive per diem and travel expenses in accordance with s. 212.061, F.S., while performing their duties.

Powers and Duties: The bill provides for the Commission's power and duties as described below.

- Conduct an annual process focused on envisioning the state's future; and developing and recommending policies, plans, action steps, or other strategies to assist in achieving the vision.
- Review and consider, continuously, statutory and regulatory provisions, governmental processes, and societal and economic trends, in relation to its inquiry into how the state, regional and local governments and entities, and citizens, can best accommodate increased populations while maintaining natural, historical, cultural and manmade life qualities that best represent Florida.
- Bring diversely representative people together to develop a shared image of the state and its developed and natural areas. This effort includes the matters addressed above and focuses on 20-year and 50-year horizons.
- Focus on essential state interests as defined in the act.
- Serve as an objective, non-partisan repository of exemplary community building ideas, and as a source to recommend strategies and practices for collaborative work on problem solving growth management issues.

Report to Legislature: The bill requires an annual written report be delivered to the Governor, the President of the Senate, and the Speaker of the House of Representatives, in addition to a verbal report to a Joint Session of the Legislature, beginning January 15, 2007. The Commission must address certain issues in its annual report, including recommendations regarding intergovernmental cooperation, dedicated sources of funding for infrastructure, and the need for balancing environmental protection with future growth.

Joint Select Committee of the Legislature: The bill provides for President of the Senate, and the Speaker of the House of Representatives, to create a joint select committee tasked with reviewing, for potential action, the annual findings and recommendations of the Commission.

Executive Director, Staff, and Other Assistance: The bill provides for the Secretary of DCA to select an executive director for the Commission, who will serve at the pleasure of the Secretary and under the supervision and control of the Commission.

Further, the bill provides that the DCA will provide necessary staff and other resources, upon recommendation of the Governor, to accomplish the Commission five goals. Finally, the bill requires the Governor's agencies, and encourages other agencies, to render assistance and cooperate with the Commission.

Staffing and Costs Appropriation: The bill provides a \$250,000 General Revenue appropriation to DCA for staffing and other assistance to the Commission.

BACKGROUND

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.

The Florida Legislature has funded numerous growth management related studies over the years including those by the Environmental Land Management Study Committee (ELMS) and the Growth Management Study Commission (GMSC). The ELMS Committee issued three reports to the Governor and Legislature in December 1973, February 1984, and December 1992. The GMSC issued its report to the Governor in February 2001. These reports have been instrumental in educating the Legislature and the general public on growth management and conservation issues throughout the past thirty years.

C. SECTION DIRECTORY:

Section 1. Creates the Growth Management Incentive Act of 2005, creating a pilot project to “incentivize” regional solutions to certain growth management issues.

- (1) Creates a popular name.
- (2) Creates intent.
- (3) Provides definitions.
- (4) Creates the Regional Planning Area Governing Board.
- (5) Creates a pilot project.
- (6) Provides for regional entities to request the Governor to designate an area as one of five regional planning areas.
- (7) Provides for the designation of five regional planning areas and regional task forces by the Governor.
- (8) Provides for the five designated regional task forces to deliver a report to the governing board along with prioritized requests for award of incentive funds.
- (9) Provides for the report and funding request review, ranking, and award of incentive funds.
- (10) Provides for contracting related to the incentive funds.
- (11) Provides eligibility criteria.
- (12) Provides priority ranking criteria.
- (13) Provides for after-action reporting by both the governing board and each of the regional task forces.
- (14) Provides for subsequent abolition of the governing board.

Section 2. Provides, effective July 1, 2005, for a nonrecurring appropriation from GR to fund the pilot project.

Section 3. Creates s. 163.3247, F.S., creating the “Century Commission Act.”

- (1) Creates a popular name.
- (2) Provides findings and intent.
- (3) Creates the Century Commission and provides for its organization.
- (4) Provides for the powers and duties of the Century Commission.
- (5) Provides for an executive director, staffing and other assistance.

Section 4. Provides, effective July 1, 2005, a General Revenue appropriation to the Department of Community Affairs for staffing and other assistance to the Century Commission.

Section 5. Provides for an effective date of upon becoming a law, except for the appropriations which have effective dates of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not have a direct impact on state revenues. A potential positive impact is possible in relation to the individual RPA activities "incentivized" through this act.

2. Expenditures:

The bill contains two direct and one indirect appropriations: \$200,000 nonrecurring General Revenue intended for staffing and other costs related to the pilot project; \$250,000 General Revenue to the Department of Community Affairs for staffing and other assistance in support of the Century Commission; and an indeterminate amount as provided in the 2005/2006 General Appropriations Act to fund the incentive pilot project.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate at this time. A potential positive impact is possible in relation to the individual RPA activities incentivized through this act.

2. Expenditures:

The designated RPAs will likely include local funding match which is indeterminate at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potential positive impact on the private sector by virtue of the activities surrounding the pilot project.

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: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues: None.

Other Comments: No comments were received at the time of publication of this analysis. However, since the fall of 2004, the Department of Community Affairs and others have engaged various interested parties and organizations in discussing a variety of concepts and issues regarding Florida's

growth management systems and processes. Among other recurrent concepts being discussed was the issue of regional efforts. It is likely that many of these individuals and organizations will want to comment on the actions proposed in this BILL.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Growth Management Committee adopted five amendments to the PCB as described below:

- Amendment No. 1. Amended the language of s. 1(4), lines 68 through 71, that contained typographical errors in the name of the board; did not adequately identify the Department of Transportation; and did not specify a chair for the governing board.
- Amendment No. 2. Amended the language of s. 1(11), lines 203 through 205, delete a redundant provision, specifically subsection (11)(e).
- Amendment No. 3. Amended the language of s. 2, lines 264 through 265, to clarify that the appropriation was to the Department of Community Affairs for staffing and others costs associated with the pilot project.
- Amendment No. 4. Amended the language of s. 2(3)(a), line 302, to provide for the staggering of all nine members of the commission, three every two years following appointment of the initial board.
- Amendment No. 5. Amends line 360 to delete a redundant phrase.

On April 6, 2005, the Local Government Council adopted five amendments to the bill as described below:

- Amendment No. 1. This amendment corrects the provision establishing staggered terms for board members of the Century Commission.
- Amendment No. 2. This amendment makes a technical correction.
- Amendment No. 3. This amendment requires a regional planning area to include the Florida Keys Area, a designated area of critical state concern.
- Amendment No. 4. This amendment requires the Regional Planning Area Governing Board to address certain issues in its final report, as appropriate, including recommendations regarding intergovernmental cooperation, dedicated sources of funding for infrastructure, and the need for balancing environmental protection with future growth.
- Amendment No. 5. This amendment requires the Century Commission to include similar discussions and recommendations in its annual report.