

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7167 PCB GM 06-01 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	10 Y, 0 N	Grayson	Grayson
1) Transportation & Economic Development Appropriations Committee		McAuliffe	Gordon
2) State Infrastructure Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 7167 (formerly PCB GM-06-01) is the glitch bill for CS/CS/CS SB 360 (2005), ch. 2005-290, L.O.F., the Act, relating to infrastructure planning and funding. The bill:

- Conforms terminology to the phrase “proportionate fair-share mitigation.”
- Corrects cross-references.
- Merges language into one provision relating to the public schools interlocal agreement.
- Provides that the “under actual-construction” requirement of transportation facility concurrency is met when construction funding needed is provided in the first 3 years of the Department of Transportation’s (DOT) work plan.
- Requires DOT to publish and distribute, after public workshops, policy guidelines to assist local governments in planning to assess and mitigate impacts of proposed concurrency management areas.
- Provides a consequence for failure to timely adopt the local government proportionate fair-share mitigation methodology and to include it into its transportation concurrency management plan.
- Requires DOT to concur or withhold its concurrence, within 30 days, with the local government’s plan for mitigation of impacts to the Strategic Intermodal System (SIS) from proposed transportation exception areas.
- Corrects, adjusts, or readdresses a number of funding issues as follows:
 - Non-recurring SIS Appropriation.
 - State Infrastructure Bank non-recurring transfer.
 - Classrooms for Kids appropriations recurring and non-recurring appropriations.
 - High Growth District Capital Outlay Assistance Grant Program recurring appropriation.
 - Century Commission for a Sustainable Florida recurring appropriation.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

This bill addresses inadvertent errors and other glitches contained in ch. 2005-290, L.O.F., the growth management act of the 2005 Legislative Session.

Background

The 2005 Legislature enacted ch. 2005-290, L.O.F. (the Act), relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session and was the last bill to pass both houses during the last hour of that Session. As a result, the Act contains a number of matters that may require correction or clarification.

Effect of Proposed Changes

Terminology for Proportionate Share

As outlined in the table below, the Act utilizes seven different terms to refer to the concept of "proportionate fair-share mitigation." The Florida Department of Transportation (DOT) utilized the phrase "proportionate fair-share mitigation" in their development of the model ordinance required in s. 163.3180(16)(a), F.S., as a result of the Act. That phrase appears to best represent the concepts embodied in the Act.

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"
	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-references

The Act contains a number of cross-references that are inaccurate and should be corrected as outlined below.

- **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).

- **Correction:** In s. 163.3180(13)(f)1., F.S., the citation to s. 163.31777(6), F.S., should be “163.31777, F.S.”

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), F.S., should be “s. 163.3164(32), F.S.”

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.

- **Correction:** In s. 163.3184(17), F.S., the citation to s. 163.31773(13), F.S., should be “s. 163.3177(13) F.S.”

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) F.S., and (14), F.S., relate to community vision and urban service boundaries, respectively.

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

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), F.S., relates to adoption of minimum criteria for review and determination of compliance of local government plan elements. The correct citation, s. 163.3180(9), F.S., relates to long-term transportation and school concurrency management systems.

Funding Issues

The Act contains a number of appropriations and other funding matters that are inadvertent or otherwise need to be corrected, adjusted, or readdressed, as outlined below.

- Transportation Funding
 - Non-recurring Strategic Intermodal System (SIS) Appropriation - The Act appropriates \$200 million for the 2005-2006 fiscal year to fund projects on the SIS. The intended funding level was \$175 million non-recurring to correspond with a one-time \$175 million transfer. The bill makes this correction.

- SIB non-recurring transfer – 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 fiscal year 2005-2006. The bill deletes that language found at s. 339.55(10), F.S.
- Education Funding
 - Classrooms for Kids appropriations – 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. The bill corrects the recurring appropriation to the intended level of \$75 million. Additionally, the bill appropriates the nonrecurring sum of \$33.35 million to account for the error in the FY 2005-2006 appropriation.
 - High Growth District Capital Outlay Assistance Grant Program - The Act contains a \$30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program. The Governor vetoed this appropriation. The bill reappropriates the amount to support the grant program.
- Century Commission for a Sustainable Florida
 - Recurring appropriation - 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 for a Sustainable Florida. The Governor vetoed the recurring appropriation. The bill reappropriates the recurring funding for this commission from funds appropriated to the Grants and Donations Trust Fund within the Department of Community Affairs.

Public Schools Interlocal Agreement

The bill amends several sections of existing law to merge the requirements for the public schools interlocal agreement into s. 163.31777, F.S. This was undertaken in an effort to provide a single statutory source for these requirements. Specifically, requirements currently existing in ss. 163.3180(13)(g), 1013.33(2) and (3), F.S., are combined and revised into the s. 163.31777, F.S.

Concurrency

Transportation Facilities: The bill provides that if the construction funding needed for transportation facilities is provided in the first 3 years of the DOT work program, then the “under-actual-construction” requirement of s. 163.3180(2)(c), F.S., is satisfied.

Impacts to the Strategic Intermodal System

Transportation Concurrency Exception Areas: The bill provides that DOT must publish and distribute, after publicly noticed workshops, policy guidelines containing criteria and options to assist local government in planning to assess and mitigate impacts of a proposed concurrency exception area as described in ss. 163.3180(5)(f) and (7), F.S.

Required Adoption of a Proportionate Fair-Share Mitigation Methodology and Transportation Concurrency Management System

The bill provides a consequence for the failure of local government to meet current law to timely adopt a methodology for assessing proportionate fair-share mitigation; and for failure to timely include its methodology into its transportation concurrency management system. The deadline for those local government actions is December 1, 2006. The consequence provided is the inability to impose a transportation impact fee.

DOT Comments on Proposed Transportation Concurrency Exception Areas

The Act provides that a local government proposing a transportation concurrency exception area must confer with the DOT regarding impacts to, and mitigation of impacts to, SIS facilities. The bill provides that the DOT must concur or withhold its concurrence with the mitigation of development impacts to facilities on the SIS within 30 days of the date of submission. If DOT fails to respond within the allotted time period, then the agency is deemed to have concurred.

C. SECTION DIRECTORY:

Section 1 - Amends s. 163.3164(32), F.S., correcting terminology.

Section 2 – Amends s. 163.3177(13)(c), F.S., correcting cross-reference.

Section 3 – Amends ss. 163.31777, F.S., relating to public schools interlocal agreements.

Section 4 – Amends ss. 163.3180, F.S., relating to concurrency.

Section 5 – Amends s. 163.3184(17), F.S., relating to adoption and amendment of comprehensive plans.

Section 6 – Amends s. 339.2819(4)(a), F.S., relating to the Transportation Regional Incentive Program.

Section 7 – Amends s. 339.55, F.S., relating to the state-funded infrastructure bank; and correcting an appropriations error.

Section 8 – Amends ss. 380.06(24)(l), (m) and (n), F.S., relating to developments of regional impact; correcting terminology.

Section 9 – Amends ss. 1013.33(2), (3), and (12), F.S., relating to the coordination of school planning with local governments.

Section 10 – Amends s. 1013.65(2)(a), F.S., relating to the Public Education Capital Outlay and Debt Service Trust Fund; correcting an appropriation for the Classrooms for Kids Program.

Section 11 – Amends s. 27 of ch. 2005-290, L.O.F., relating to appropriations.

Section 12 – Creates appropriations.

Section 13 - Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill contains appropriations as follows

- Corrects non-recurring SIS appropriation from \$200 million to \$175 million.
- Deletes s. 339.55(10), F.S., relating to a recurring SIB appropriation.
- Corrects the recurring Classroom for Kids appropriation from \$41.75 to \$75 million.

- Creates a nonrecurring \$33.35 million appropriation for Classrooms for Kids.
- Creates a \$30 million recurring appropriation for the High Growth District Capital Outlay Assistance Grant Program.
- Creates a recurring \$250,000 appropriation for the Century Commission for a Sustainable Florida.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. The bill provides the potential for some local governments to benefit from appropriations to both the Classrooms for Kids Program and the High Growth County District Capital Outlay Assistance Program. Counties that fail to enact the proportionate share ordinance may lose out on some impact fee revenues.

2. Expenditures:

Indeterminate. While the bill strengthens certain timing requirements for local government planning related activities, the requirement to undertake those activities exists in current law.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill both strengthens the timing requirements for certain local government actions and appropriates funding which provides the potential for some local government benefits. Both of these features may result in either advancing or delaying local development activities depending upon specific local circumstances.

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:

The bill does not appear to raise any constitutional issues.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 21, 2006, the Growth Management Committee adopted one amendment. The amendment removed the deletion of s. 163.31777(3)(b) and (c), F.S. from the bill.