

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Policy and Steering Committee on Ways and Means

BILL: CS/SB 1786

INTRODUCER: Transportation and Economic Development Appropriations Committee and Senator Fasano

SUBJECT: Comprehensive Planning

DATE: April 6, 2009                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weaver	Noble	TA	<b>Fav/CS</b>
2.	Weaver	Kelly	WPSC	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill establishes a \$200 fee for each proposed comprehensive plan amendment submitted to the Department of Community Affairs (DCA). All collected fees are to be deposited into the Operating Trust Fund within the DCA. DCA must submit a report to the Speaker of the House of Representatives and President of the Senate by October 1, 2010, evaluating the fee collection.

The bill is expected to have a positive fiscal impact of \$1.3 million on the Operating Trust Fund in DCA and \$0.1 million on the General Revenue Fund.

This bill creates ss. 163.3184(3)(e), Florida Statutes.

**II. Present Situation:**

***Comprehensive Plan Amendments***

A local government may amend its comprehensive plan provided certain conditions are met including two advertised public hearings on a proposed amendment before its adoption and

mandatory review by the DCA.<sup>1</sup> By rule, the DCA reviews a submitted comprehensive plan amendment to insure it has a complete application package within 5 days of receiving the comprehensive plan amendment.<sup>2</sup> A local government may amend its comprehensive plan only twice per year with certain exceptions. At present, the statutorily prescribed timeline for a comprehensive plan amendment days to be processed is 136 days. Small-scale plan amendments are treated differently. These amendments may not change goals, policies, or objectives of the local government's comprehensive plan. Instead, these amendments propose changes to the future land use map for site-specific small scale development activity. The DCA does not issue a notice of intent stating whether a small scale development amendment is in compliance with the comprehensive plan.

### ***Alternative State Review Process***

In 2007, the Legislature created a pilot program to provide an alternate, expedited process for plan amendments with limited state agency review. Pilot communities transmit plan amendments, along with supporting data and analyses to specified state agencies and local governmental entities after the first public hearing on the plan amendment. Comments from state agencies may include technical guidance on issues of agency jurisdiction as it relates to ch. 163, part II, F.S., the Growth Management Act. Comments are due back to the local government proposing the plan amendment within 30 days of receipt of the amendment. Following a second public hearing that shall be an adoption hearing on the plan amendment, the local government transmits the amendment with supporting data and analyses to DCA and any other state agency or local government that provided timely comments. An affected person, as defined in s. 163.3184(1)(a), F.S., or DCA may challenge a plan amendment adopted by a pilot community within 30 days after adoption of the amendment. DCA's challenge is limited to those issues raised in the comments by the reviewing agencies, but the statute encourages the DCA to focus its challenges on issues of regional or statewide importance. DCA does not issue a report detailing its objections, recommendations, and comments. The alternative state review process shortens statutorily prescribed timeline for comprehensive plan amendments process from 136 days to 65 days

Florida Statutes does not authorize the DCA to charge a fee for the review of local government comprehensive plan amendments.

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

The bill requires a local government to pay a \$200 fee for each proposed comprehensive plan amendment submitted to DCA pursuant to s. 163.3184(3) and s. 163.32465(4), F.S.

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

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

On its face, the bill requires cities and counties to pay a fee for the review of each proposed comprehensive plan amendment submitted to the state after July 1, 2009. It is anticipated that this fee will generate \$1.4 million statewide. However, under current law, cities and counties may opt to require the proponent of the plan amendment to pay the costs incurred by the local government related to the plan amendment.

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<sup>1</sup> Section 163.3189, F. S.

<sup>2</sup> F.A.C. 9J-11.008.

Section 18(a) of Article VII of the State Constitution provides, in pertinent part, that a city or county is not bound by a general law which requires the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature. Other exceptions and exemptions to this provision do not appear to be applicable.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The bill establishes a fee of \$200, to be paid by local governments, for the review of a proposed comprehensive plan amendment.

**B. Private Sector Impact:**

Current law does not preclude local governments from passing the cost of the state fees on to the party interested in a particular plan amendment.

**C. Government Sector Impact:**

	<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>
Estimated Receipts*	\$1,405,700	\$1,405,700	\$1,405,700

\*The estimated revenue is based on a four-year average (2004 through 2007) of proposed comprehensive plan amendments received by the DCA.

The revenue generated from these fees will be deposited into the Operating Trust Fund within the DCA, subject to the service charges imposed in s. 215.20, F.S. The proposed General Appropriations Act for FY 2009-2010 uses these revenues to support activities in the Division of Community Planning and the Building Codes and Standards program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Committee on Transportation and Economic Development Appropriation on April 1, 2009:**

The CS:

- Establishes a fee of \$200, paid by local governments, for each proposed comprehensive plan amendment submitted to DCA for review pursuant to s. 163.3184(3) and s. 163.32465(4), F.S.
- Clarifies that local government's authority to pass the fee on to the entity requesting the plan amendment is not limited by the bill.
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- Requires all fees collected to be deposited into the Operating Trust Fund within the DCA.
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- Requires DCA to submit a report evaluating the fee collection to the Speaker of the House of Representatives and President of the Senate by October 1, 2010,.
- 
- Adds a statement that the Legislature finds that this act fulfills an important state interest.

- B. Amendments:

None.