

**PINELLAS PLANNING COUNCIL
AGENDA MEMORANDUM**

AGENDA ITEM: IV. C.

MEETING DATE: May 20, 2009

SUBJECT:

2009 Regular Legislative Session Wrap Up

RECOMMENDATION:

Council Receive and Discuss Status Report As Determined Appropriate
(Information Only – No Action Required)

BACKGROUND

On Friday, May 1, 2009, the regular session of the Florida Legislature came to an end. It was not until after eight o'clock at night that Senate Bill 360, the major growth management bill of the session, was passed. The Governor has not yet signed the bill into law, but most sources say that he will. The 82-page bill, named the "Community Renewal Act," has too many provisions to examine all of them, so only selective ones will be discussed. Interested persons can access the bill at the Senate web site: <http://www.flsenate.gov/data/session/2009/Senate/bills/billtext/pdf/s0360er.pdf>.

The bill has received both praise and criticism with supporters saying that it will boost the economy and promote development in urban areas. Those who oppose the bill say that it materially changes the current concurrency management system by deleting the requirement for developers to pay for or add transportation capacity by constructing new infrastructure to mitigate the impacts of their developments. Instead, a "mobility fee," that has yet to be developed, is intended to "replace the existing transportation concurrency system," will be used to address transportation issues. The Department of Community Affairs and the Department of Transportation are to work together to develop the mobility fee. They are also to submit to the Legislature by December 1, 2009, "a final joint report on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems...." The final report is to contain "an economic analysis of (the) implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector."

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COUNTYWIDE PLANNING AUTHORITY ACTION:

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Other provisions in SB 360 include:

1. The bill adds a new term to Section 163.3164(34), F.S. (Definitions), that being “dense urban land area.” This term is important to Pinellas County because by being identified as a dense urban land area, the county automatically becomes a “transportation concurrency exception area” or TCEA.
2. If a jurisdiction is determined to be a TCEA under the new provisions of Section 163.3180(5), F.S., a new section of Chapter 163 (163.3177(3)(f), F.S.) says it “shall be deemed to meet the requirements to achieve and maintain level-of-service standards for transportation.”
3. After finding “that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity... (and) is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers,” new provisions define jurisdictions that are automatically TCEAs (Section 163.3180(5)(a)1., F.S.).

Pinellas County is included as a TCEA because the county, “including the municipalities located therein, ... has a population of at least 900,000 and qualifies as a dense urban land area...but does not have an urban service area designated in the local comprehensive plan.” Within two years after being designated a TCEA, a local governments is required to “adopt into its local comprehensive plan land use and transportation strategies to support and fund mobility within the exception area, including alternative modes of transportation. Local governments are encouraged to adopt complementary land use and transportation strategies that reflect the region’s shared vision for it future.”

4. The bill moves back the requirement for local comprehensive plan capital improvements elements to be financially feasible (163.3177(3)(b)1., F.S.) from December 1, 2009 to December 1, 2011.
5. Section 163.3177(6)(h)1.c., F.S., previously stated that local comprehensive plan intergovernmental coordination elements “*may* provide for a *voluntary* dispute resolution process....” The section was amended to say that the ICE “*shall* provide for a dispute resolution process as established pursuant to s. 186.509 (F.S.) for bringing to closure in a timely manner intergovernmental disputes.” Section 186.509, F.S., provides for the “regional planning council to establish a dispute resolution process to reconcile differences on planning and growth management issues between” jurisdictions, and agencies. The bill also deletes the ability of a local government to develop and use an alternative local dispute resolution process.

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6. If a zoning change is needed to “properly enact the provisions of any proposed (future land use) plan amendment,” a local government is required to “consider” an applicant request for that change.
7. Large-scale projects normally subject to development of regional impact (DRI) regulations are exempt from those regulations in a jurisdiction defined as a dense urban land area. This provision includes Pinellas County (see #1 and #5 above for the standards that define a dense urban land area).
8. With certain exceptions, the bill extends and renews for a period of two years permits and development orders that have expiration dates between September 1, 2008, through January 1, 2012.
9. Beginning with Section 15 of the bill, the final 34 pages are devoted to legislation affecting the provision of affordable housing in the state. One provision in particular will affect the Pinellas County government more than those in other counties because of the large number of mobile homes located here. A new provision “(i)” is added to Section 163.3202(2), F.S., (Land development regulations). It says that county land development regulations are to “maintain the existing density of residential properties or recreational vehicle parks if the properties are intended for residential use and are located in the unincorporated areas that have sufficient infrastructure...and are not located within a coastal high-hazard area....” The intent and land use implications of this provision are, at present, unknown.

Lastly, SB 360 will become effective upon becoming a law if the Governor signs the proposed legislation. As this agenda memo is being written (May 12th), SB 360 has not yet been presented to the Governor, but once it is, he will have 15 days to act on it.

In addition to SB 360, a number of other bills passed which will have an impact on local governments if signed into law. One of the more interesting amendments to a bill involved House Bill 227. The original version amended Section 163.31801, F.S., and stated that, “In any action challenging an impact fee, the *challenger* has the burden of proving by a preponderance of the evidence that the imposition or amount of the fee does not meet the requirements of state legal precedent or this section. The court may not use a deferential standard that favors either party.” However, to quote the staff analysis, after amendment, the bill now “requires that, should a person challenge an impact fee ordinance, the *government* that enacted the ordinance must show, by a preponderance of the evidence, that the imposition or amount of the fee meets the requirements of state legal precedent or statute.” Furthermore, “the bill also provides that the court may not use a deferential standard that favors either party. The effect of this change is that the court will not use the ‘fairly debatable’ standards of review when evaluating the legality of an impact fee ordinance.”

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HB 1021 is a transportation bill that integrates airport planning and adjacent land uses in local comprehensive plans. The bill also transfers any remaining assets or liabilities of the Tampa Bay Commuter Transit Authority which has been dormant for a number of years to the Tampa Bay Area Regional Transportation Authority (TBARTA).

While not directly affecting Pinellas County, the failure to pass SB 1212 (Central Florida's SunRail system) is nonetheless, significant. The bill was intended to allow "for regional components with particular direction to address the improvement of freight and passenger mobility in Florida." The SunRail project involved the purchase of a 61-mile stretch of existing rail freight tracks in a four-county area (Orange, Seminole, Volusia, and Osceola) and implementation of a commuter rail system. The Florida Department of Transportation and the CSX corporation had reached an agreement on the purchase of the tracks, but other issues, particularly the public assumption virtually all risks worked against the bill's passage. The failure of SB 1212 could help Pinellas County by identifying the weak points in that legislation so that when opportunities for enhanced mobility occur in this county and legislation is required to implement it, the same mistakes are not made.

Finally, several bills that did not pass proposed either the elimination or breaking up of the Department of Community Affairs; the placement of a 3-year moratorium on the imposition or collection of all impact fees by a county or municipality; the requirement for an affordable housing element for seniors in local comprehensive plans; and the imposition on local governments of a \$200 fee for each proposed comprehensive plan amendment submitted to DCA.