

2011 GROWTH MANAGEMENT LEGISLATION



**North
Central
Florida
Regional
Planning
Council**

OVERVIEW

- Governmental Reorganization
Senate Bill 2156
- Growth Management
House Bill 7207
- Impact Fees
Senate Bill 410

Governmental Reorganization

Senate Bill 2156

- Eliminates the Department of Community Affairs
- Creates the new Department of Economic Opportunity
- Transfers from the Department of Community Affairs to the Department of Economic Opportunity, the Division of Housing and Community Development, the Division of Community Planning, and the Florida Housing Finance Corporation



Governmental Reorganization

Senate Bill 2156

- Transfers the Division of Emergency Management to the Executive Office of the Governor
- Transfers the Florida Building Commission to the Department of Business and Professional Regulation
- Transfers Florida Communities Trust and the Stan Mayfield Working Waterfronts programs to the Department of Environmental Protection



Governmental Reorganization

Senate Bill 2156

- Transfers the Agency for Workforce Innovation, the Office of Unemployment Compensation and the Office of Workforce Services to the new Florida Department of Economic Opportunity;
- Transfers the Office of Tourism, Trade and Economic Development (OTTED) from the Governor's Office to the new Florida Department of Economic Opportunity



Governmental Reorganization

Senate Bill 2156

- The Department of Economic Opportunity includes:
 - The Division of Community Development
 - The Division of Finance and Administration
 - The Division of Strategic Business Development
 - The Division of Workforce Services



Governmental Reorganization

Senate Bill 2156

- The Division of Community Development
 - Assists local governments in finding creative planning solutions to foster vibrant, healthy communities, while protecting important state resources and facilities
 - Administers state and federal grant programs for community development and project planning to expand economic development and employment opportunities



Governmental Reorganization

Senate Bill 2156

- The Division of Community Development includes:
 - Community Service Block Grant Program
 - Community Development Block Grant
 - Low-Income Home Energy Assistance Program
 - Weatherization Assistance Program
 - Neighborhood Stabilization Program
 - Front Porch Florida Initiative
 - Local comprehensive planning process and development of regional impact process



Governmental Reorganization

Senate Bill 2156

- The Division of Community Development will assist the Division of Strategic Business Development in developing a 5-year statewide strategic plan.
 - To create strategies for the promotion of business formation, expansion, recruitment and retention.
 - To develop policies and programs to further economic diversity of the state, its regions, and their associated industrial clusters.
 - To create specific provisions for the stimulation of economic development and job creation in rural areas, including strategies for rural marketing and the development of infrastructure in rural areas.



Growth Management

House Bill 7207

- Chapter 163 Part II, Florida Statutes
 - Old title - The Local Government Comprehensive Planning and Land Development Regulation Act
 - New title - The Community Planning Act



Growth Management

House Bill 7207

- Rule 9-J5 Repealed

- Chapter 9-J5, Florida Administrative Code, Minimum Criteria for Review of Local Government Comprehensive Plans and Plan Amendments, Evaluation and Appraisal Reports, Land Development Regulations and Determinations of Compliance;
- Some of the provisions of 9J-5 are incorporated into Chapter 163, Florida Statute.
- The state land planning agency can provide guidance on its website regarding the submittal and adoption of comprehensive plans, plan amendments and land development regulations. Such guidance will not be adopted as a rule.



Growth Management

House Bill 7207

- Comprehensive Plan Amendment Process
 - Deletes twice per year plan amendment cycle limitation
 - Within 180 days of receiving agency comments, local governments are required to adopt amendments or the amendments are considered withdrawn, unless extended by agreement with notice to the state land planning agency and affected person.



Growth Management

House Bill 7207

- Comprehensive Plan Amendment Process
 - Small Scale Review
 - State Coordinated Review
 - Expedited State Review



Growth Management

House Bill 7207

- Small Scale Review Process
 - 10 acres
 - Rural Areas of Critical Economic Concern 20 acres
 - 120 acres per calendar year
 - Text changes directly related to and adopted simultaneously with small scale future land use map amendment is permissible
 - No state review
 - Removes residential density cap of 10 units per acre



Growth Management

House Bill 7207

- State Coordinated Review
 - Evaluation and Appraisal Report Based Amendments
 - Rural Land Stewardship
 - Sector Plans
 - Plans for newly incorporated municipalities



Growth Management

House Bill 7207

- State Coordinated Review Process (Current Review Process)
 - Reviewing agencies send comments to state land planning agency within 30 days after receipt of proposed amendment.
 - If state land planning agency elects to review the amendment, an Objections, Recommendations and Comments (ORC) report will be prepared within 60 days after receipt of proposed amendment.
 - The second public hearing to determine whether to adopt the amendment must occur within 180 days after receipt of ORC report or the amendment will be deemed withdrawn, unless extended by agreement.



Growth Management

House Bill 7207

- State Coordinated Review Process (continued)
 - Within 10 days submit adopted amendment to state land planning agency.
 - State land planning agency will notify the local government within 5 working days of any deficiencies.
 - After the determination of completeness the state land planning agency will have 45 days to determine if the plan or plan amendment is in compliance. The amendment will go into effect pursuant to the Notice of Intent.



Growth Management

House Bill 7207

- State Coordinated Review Process (continued)
 - If timely challenged, an amendment does not become effective until the state land planning agency or Administration Commission enters a final order determining the adopted amendment to be in compliance.



Growth Management

House Bill 7207

- Expedited State Review
 - For all other amendments.
 - After initial public hearing transmit within 10 days to reviewing agencies.
 - Reviewing agencies will only comment on state or regional resources and facilities that will be adversely impacted by the amendment if adopted.
 - Within 180 days after receipt of agency comments, second public hearing is to be held on whether to adopt the amendment or the amendment will be deemed withdrawn unless it is extended by agreement.



Growth Management

House Bill 7207

- Expedited State Review (continued)
 - Within 10 days submit adopted amendment to state land planning agency.
 - State land planning agency will notify the local government within 5 working days of any deficiencies.
 - Amendment becomes effective 31 days after the state land planning agency notifies the local government that the plan amendment package is complete.
 - If challenged during that period, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.



Growth Management House Bill 7207

- Administrative Challenges
 - An affected person may file a petition to challenge whether a plan or plan amendment is in compliance
 - Must file with the Division of Administrative Hearing
 - Must file within 30 days of a plan or plan amendment adoption



Growth Management

House Bill 7207

- Administrative Challenges (continued)
 - The State Land Planning Agency may file a petition to challenge whether the plan or plan amendment is in compliance.
 - Must file with the Division of Administrative Hearing
 - Must clearly state the reasons for challenge
 - Under the expedited review process, must file within 30 days after the state land planning agency notifies local government that the package is complete.
 - Under the state coordinated review process, must file 45 days after the state land planning agency notifies local government that the package is complete.



Growth Management

House Bill 7207

- Administrative Challenges (continued)
 - Under the expedited state review process
 - The state land planning agency's challenge to the amendment shall be limited to the comments provided by the reviewing agencies upon a determination by the state land planning agency that an important resource or facility will be adversely impacted by the adopted plan amendment.
 - Must state with specificity how the plan amendment will adversely impact state resource or facility.
 - May challenge a plan amendment that has substantially changed from the version in which the agency provided comments, but only on a determination by the state land planning agency that an important state resource or facility will be adversely impacted.



Growth Management

House Bill 7207

- Administrative Challenges (continued)
 - In challenges filed by affected person, the plan or plan amendment shall be determined to be in compliance if the local government's determination of compliance is **fairly debatable**.
 - In challenges filed by state land planning agency, the local government's determination of compliance is **presumed to be correct**, the local government's determination will be sustained unless it is shown by a preponderance of the evidence that the amendment is not in compliance.

Growth Management

House Bill 7207

- Comprehensive Plan

- Deletes financial feasibility requirement and definition
- Updates to 5-year capital improvements schedule of the Capital Improvements by ordinance and may not be deemed to be an amendment to the local comprehensive plan
- Deletes requirements to address energy efficient land use patterns, greenhouse gas reduction
- Amendment will be determined to discourage the proliferation of urban sprawl if it incorporates a development pattern or urban form that meets at least four of the eight criteria.



Growth Management

House Bill 7207

- Comprehensive Plan (continued)
 - Plan amendments for agricultural enclaves are presumed not be urban sprawl
 - Plan amendments related to rural agricultural industrial centers are presumed not to be urban sprawl
 - Transportation, parks and recreation, and school concurrency optional
 - Sector Planning pilot status deleted thus making it available to all counties and cities. Minimum size of Sector Plans increased to 15,000 acres.



Growth Management

House Bill 7207

- Evaluation and Appraisal of Comprehensive Plan
 - Evaluate once every 7 years
 - Determine if plan amendments are necessary to reflect changes in state requirements since the last update of the comprehensive plan and notify the state land planning agency
 - If amendments are necessary, the local government will prepare and transmit within 1 year plan amendments for review.
 - If letter not submitted or plan not updated, comprehensive plan can not be amended.
 - Eliminates state land planning agency sufficiency review of Evaluation and Appraisal Report



Growth Management

House Bill 7207

– Permit Extensions

- 2-year extension for those that received an extension under Senate Bill 360
- 2-year extension to any building permit or permit issued by Department of Environmental Protection, or a Water Management District which has an expiration date from January 1, 2012 through January 1, 2014
- Permit holder must notify the authorizing agency by December 31, 2011



Impact Fee

Senate Bill 410

- If an impact fee ordinance is challenged, the local government must show by a **preponderance of evidence** that the imposition or amount of the fee meets the requirement of state legal precedent.
- Prohibits the court from using the deferential standard of review for the local government decision, the fairly **debatable standard**, when evaluating the legality of an impact fee ordinance.

SUMMARY

■ Governmental Reorganization

- Eliminates Department of Community Affairs
- Creates new Department of Economic Opportunity

■ Comprehensive Planning Process

- Repeals Chapter 9J-5, Florida Administrative Code
- Repeals twice per year limitation of comprehensive plan amendments
- Streamlines comprehensive plan amendment review process
- Streamlines Evaluation and Appraisal Report process
- Makes transportation, parks and recreation, and school concurrency optional
- Repeals financial feasibility
- Repeals energy efficiency and greenhouse gas reduction requirements