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 Committee on Fiscal Policy

BILL: CS/CS/SB 1216

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; and Senator Simpson

SUBJECT: Community Development

DATE: April 10, 2015 REVISED: _____ _____ _____ _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Stearns | Yeatman | CA | **Fav/CS** |
| 2. | Gusky | Miller | ATD | **Recommend: Favorable** |
| 3. | Pace/Stearns | Hrdlicka | FP | **Fav/CS** |

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

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:


CS/CS/SB 1216 authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of "blighted area," enabling community redevelopment agencies (CRAs) to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The bill designates 10 regional planning councils (RPCs) and their borders. The Withlacoochee Regional Planning Council is dissolved and the five counties currently within that council are incorporated into three other councils. The bill deletes several of the RPCs' statutory duties and requirements because they are already completed, unnecessary or duplicative.

The bill removes the state mandate that new developments surpassing certain thresholds and standards be subjected to the development of regional impact (DRI) review process. The bill shifts comprehensive plan amendments related to such developments to the State Coordinated Review Process.

The bill clarifies the sector plan law. It states that the planning standards of the sector planning statute supersede generally applicable planning standards elsewhere in ch. 163, F.S. The bill provides more flexibility in the designation of conservation easements related to sector plans. The bill requires certain state agencies to review an application for a detailed specific area plan (DSAP) to determine whether the development would be consistent with the comprehensive plan

and the long-term master plan. It provides that a water management district (WMD) may issue a consumptive use permit (CUP) for the same time period as a master development order if the project meets certain requirements. The bill provides that a district may phase in the water allocation over the duration of the permit to correspond to the actual needs of the development.

The bill names Pasco County as a pilot community for connected-city corridor plan amendments. The bill exempts projects within a connected-city corridor from the DRI impact review process. The bill requires community development districts (CDDs) located within a connected-city corridor and less than 2,000 acres to be established pursuant to a county ordinance. The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report on the pilot project to the Governor and Legislature in 10 years.

## II. Present Situation:

### Improvements to Real Property Damaged by Sinkhole Activity

#### *The Property Assessed Clean Energy Program*

The Property Assessed Clean Energy (PACE) Program enables local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government provides the upfront funding for the project through proceeds from issuing a revenue bond, which are repaid by assessments on participating property owners' tax bills.[1]

#### *Voluntary Energy and Wind Resistant Real Property Improvements*

The 2010 Legislature passed an expanded form of the PACE model.[2] Section 163.08, F.S., provides supplemental authority to local governments regarding qualified improvements to real property. The law provides that if a local government passes an ordinance or adopts a resolution to create a program to provide up-front financing for energy conservation and efficiency, renewable energy, or wind resistance improvements, a property owner within the jurisdiction of that local government may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government.[3] "Qualifying improvements" include energy conservation and efficiency improvements; renewable energy improvements; and wind resistance improvements.[4]

At least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount.[5] The law provides that an acceleration clause for "payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing

[1] For more information, *see* http://www.pacenow.org and http://floridapace.gov/ (last visited Apr. 9, 2015).
[2] Chapter 2010-139, L.O.F.
[3] Section 163.08(4), F.S.
[4] Section 163.08(2)(b), F.S.
[5] Section 163.08(13), F.S.

agreement as provided for in this section is not enforceable."[6] However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The law authorizes a local government to partner with one or more local governments for the purpose of providing and financing qualifying improvements, levy a non-ad valorem assessment to fund a qualifying improvement, incur debt to provide financing for qualifying improvements, and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments are senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. In 2012, the Legislature clarified that a partnership of local governments may enter into a financing agreement and that the separate legal entity may impose the voluntary special assessments for purposes of the program.[7]

Specific qualifying improvements are determined by the 12 Florida counties where programs exist.[8] To participate in a program, property owners must have paid property taxes and not been delinquent for the previous three years.[9] The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.[10] In 2010, the Federal Housing Finance Agency (FHFA) directed mortgage underwriters Fannie Mae and Freddie Mac to not purchase mortgages of homes with a PACE lien due to its senior status above a mortgage.[11] Although residential PACE activity subsided following this directive, some residential PACE programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address the FHFA's concerns.[12]

***The Community Redevelopment Act***

The Community Redevelopment Act of 1969,[13] authorizes a county or municipality to create community redevelopment agencies (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,[14] CRAs can:

- Enter into contracts,

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[6] *Id.*, s. 163.08(15), F.S.
[7] Chapter 2012-117, L.O.F.
[8] Database of State Incentives for Renewables & Efficiency, *Florida PACE Financing*, *available at* http://programs.dsireusa.org/system/program/detail/3869 (last visited Apr. 9, 2015).
[9] Section 163.08(9), F.S.
[10] Section 163.08(12)(a), F.S.
[11] Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), available at http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx (last visited Apr. 9, 2015). *See also* Federal Housing Financial Agency, *Statement of the Federal Housing Finance Agency on Certain Super Priority Liens* (December 22, 2014) ("FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac's policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it") *available at* http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx (last visited Apr. 9, 2015).
[12] Commercial PACE programs were not directly affected by the FHFA's actions because Fannie Mae and Freddie Mac do not underwrite commercial mortgages. Database of State Incentives for Renewables & Efficiency, *supra* note 8.
[13] Part III, ch. 163, F.S.
[14] Section 163.360, F.S.

- Disseminate information,
- Acquire property within a slum or blighted area by voluntary methods,
- Demolish and remove buildings and improvements,
- Construct improvements, and
- Dispose of property at fair value.[15]

CRAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).[16] Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to repay bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.[17]

Section 163.340(8), F.S., defines "blighted area" as follows:

> An area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:
> (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
> (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
> (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
> (d) Unsanitary or unsafe conditions;
> (e) Deterioration of site or other improvements;
> (f) Inadequate and outdated building density patterns;
> (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
> (h) Tax or special assessment delinquency exceeding the fair value of the land;
> (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
> (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
> (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;

[15] Section 163.370, F.S.
[16] Through tax increment financing, a baseline tax amount is determined and any taxes generated in future years above that baseline amount are transferred into the trust fund. *See* Section 163.387(1)(a), F.S.
[17] Sections 163.355(1) and 163.360(1), F.S.

(l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
(m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
(n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

***Sinkholes***

A sinkhole has been defined as "a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved."[18] Sinkholes are a common feature in Florida's landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.[19] Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.[20] A sinkhole forms when sediments overlying such a void collapse. Because "groundwater that feeds springs is recharged … through direct conduits such as sinkholes," the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be "threatened by actual and potential flow reductions and declining water quality."[21]

The two most commonly recommended stabilization techniques for sinkholes are grouting and underpinning.[22] Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.[23] Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building's foundation.[24] One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

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[18] Section 627.706(2)(h), F.S.
[19] Such as limestone and dolomite. See, Florida Dep't of Environmental Protection, *Sinkholes, available at* http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm (last visited Apr. 9, 2015).
[20] *Id.*
[21] Section 369.315, F.S.
[22] Citizens Property Insurance Corporation, Sinkhole Repairs: *Underpinning and Grouting*, (Oct. 30, 2012) *available at* https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf (last visited on Apr. 9, 2015).
[23] See *id.*
[24] See *id.*

**Regional Planning Councils**

The Florida Legislature passed the Florida Regional Planning Council Act in 1980.[25] The Legislature found that "the problems of growth and development often transcend the boundaries of individual units of local general-purpose government"[26] and that "there is a need for regional planning agencies to assist local governments to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain federal and state grants-in-aid, and provide a regional focus in regard to multiple programs undertaken on an areawide basis."[27]

Today, the state is divided into 11 regional planning councils (RPCs), each functioning as an association of that district's constituent local governments. Two-thirds of the Board of Governors of each RPC is composed of local elected officials, and the remaining third are gubernatorial appointees. Generally, the primary functions of RPCs fall into the following three major categories:[28]

- Economic development/job creation,
- Emergency preparedness planning, training and exercise, and
- Land development and growth related activities.

***Economic Development and Job Creation***

Section 186.502(5), F.S., provides that RPCs have "a duty to assist local governments with activities designed to promote and facilitate economic development in the geographic area covered by the council." RPCs carry out this duty in a number of ways. For example, each RPC is a designated Economic Development District by the U.S. Economic Development Administration. As part of this function, they engage in grant writing and administration, which result in economic development and infrastructure funds being awarded to the state that would not otherwise have been received. RPCs administer federal revolving loan funds, including those for brownfields, many of which result in job creation.[29] They conduct regional economic impact analysis modeling to help local governments and economic development organizations make decisions regarding incentives for new or expanding economic development projects.

RPCs also play a vital role in implementing the Florida Strategic Plan for Economic Development. In addition to providing the Comprehensive Economic Development Strategies used by the plan, RPCs held public forums at which extensive public input was received.[30] Several of the councils partnered with other organizations in their respective areas to create "regional prosperity plans," including the:

- Seven50 plan, created in part by the South Florida Regional Planning Council and the Treasure Coast Regional Planning Council;

[25] Sections 186.501-186.513, F.S.
[26] Section 186.502(a), F.S.
[27] Section 186.502(b), F.S.
[28] Memo from Ronald Book, the Executive Director of the Florida Regional Councils Association, on file with the Senate Community Affairs Committee.
[29] *Id.*
[30] Florida Department of Economic Opportunity, *Florida Strategic Plan for Economic Development*, *available at* www.floridajobs.org/Business/FL5yrPlan/FL_5yrEcoPlan.pdf (last visited Apr. 9, 2015).

- Regional Business Plan for Tampa Bay, created under the leadership of the Tampa Bay Regional Planning Council; and
- Innovate Northeast Florida initiative, created in partnership with the Northeast Florida Regional Planning Council.[31]

***Emergency Preparedness Planning, Training and Exercise***

Section 186.505(11), F.S., states that RPCs have the duty "[t]o cooperate, in the exercise of [their] planning functions, with federal and state agencies in planning for emergency management as defined in s. 252.34." RPCs fulfill this duty by serving as the state's Local Emergency Planning Committees.[32] Regional evacuation studies have historically been conducted by RPCs under contract with the Florida Department of Emergency Management.[33] These studies provide the data and information necessary for county emergency management departments to develop operational evacuation plans. These efforts, building off regional evacuation studies conducted by the RPCs in 2007 and 2010, were recognized by the American Planning Association in 2012 with its National Planning Excellence Award for Best Practices in Hazard Mitigation and Disaster Planning.[34]

In 1988, the state's 11 RPCs were designated as the Local Emergency Planning Committees required by federal law to implement hazardous materials emergency planning. As part of their duties in this role, the RPCs:

- Engage in public outreach.
- Provide technical assistance to local governments.
- Engage in hazards analysis/planning.
- Conduct training exercises.

Florida is recognized as having the leading hazardous materials planning process in the nation.[35]

***Land Development and Growth Management***

Section 186.502(4), F.S., recognizes Florida's RPCs as the state's "only multipurpose regional entity that is in a position to plan for and coordinate intergovernmental solutions to growth-related problems on greater-than-local issues, provide technical assistance to local governments, and meet other needs of the communities in each region." As part of their duties, RPCs are directed to:

- Act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.[36]
- Conduct studies of the resources of the region.[37]
- Provide technical assistance to local governments on growth management matters.[38]

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[31] *Id.*
[32] Memo from Ronald Book, *supra* note 28.
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] Section 186.505(10), F.S.
[37] Section 186.505(16), F.S.
[38] Section 186.505(20), F.S.

- Perform a coordinating function among other regional entities relating to preparation and assurance of regular review of the strategic regional policy plan, with the entities to be coordinated determined by the topics addressed in the strategic regional policy plan.[39]
- Coordinate land development and transportation policies in a manner that fosters region wide transportation systems.[40]
- Review plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government plans.[41]
- Provide consulting services to a private developer or landowner for a project.[42]

Section 186.507, F.S., directs RPCs to develop a strategic regional policy plan. The plan is required to "contain regional goals and policies that shall address affordable housing, economic development, emergency preparedness, natural resources of regional significance, and regional transportation" and is required to "identify and address significant regional resources and facilities."[43]

RPCs play a role in the review and analysis of local government comprehensive plans and amendments to such plans,[44] as well as proposed developments of regional impact (DRIs).[45]

**Developments of Regional Impact**

***Development of Regional Impact Background***

A DRI is defined in s. 380.06, F.S., as "any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county." Section 380.06, F.S., provides for both state and regional review of local land use decisions involving DRIs. RPCs coordinate the review process with local, regional, state and federal agencies and recommend conditions of approval or denial to local governments. DRIs are also reviewed by the Department of Economic Opportunity (DEO) for compliance with state law and to identify the regional and state impacts of large-scale developments. Local DRI development orders may be appealed by the owner, the developer, or the state land planning agency to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.[46] Section 380.06(24), F.S., exempts numerous types of projects from review as a DRI.

The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed moment that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI

[39] Section 185.505(21), F.S.
[40] Section 186.505(23), F.S.
[41] Section 186.505(24), F.S.
[42] Section 186.505(26), F.S.
[43] Section 186.507(1), F.S.
[44] Section 163.3184, F.S.
[45] Section 380.06, F.S.
[46] Section 380.07(2), F.S.

program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) in their local plans.[47] After much controversy, this recommendation never fully came to fruition and the DRI program continued in its previous form. The Legislature has enacted a number of exemptions to the DRI program since that time, but never fully repealed it as originally intended.

***DRI Review***

All developments that meet the DRI thresholds and standards provided by statute[48] and rules adopted by the Administration Commission[49] are required to undergo DRI review, unless the Legislature has provided an exemption for that particular type of project, the development is located within a "dense urban land area,"[50] or the development is located in a planning area receiving a legislative exemption such as a sector plan or a rural land stewardship area. The types of developments required to undergo DRI review upon meeting the specified thresholds and standards include attraction and recreation facilities, office developments, retail and service developments, mixed-use developments, residential developments, schools, and recreational vehicle developments.[51] Over the years, the Legislature has enacted new exemptions and increased the thresholds that projects must surpass in order to trigger DRI review.

Florida's 11 RPCs coordinate the multi-agency review of proposed DRIs. A DRI review is begun by a developer contacting the RPC with jurisdiction over a proposed development to arrange a pre-application conference.[52] The developer or the RPC may request other affected state and regional agencies participate in the conference to identify issues raised by the proposed project and the level of information that the agency will require in the application to assess those issues. At the pre-application conference, the RPC provides the developer with information about the DRI process and uses the pre-application conference to identify issues and to coordinate the appropriate state and local agency requirements.

An agreement may also be reached between the RPC and the developer regarding assumptions and methodology to be used in the application for development approval. If an agreement is reached, the reviewing agencies may not later object to the agreed-upon assumptions and methodologies unless the project changes or subsequent information makes the assumptions or methodologies no longer relevant.

Upon completion of the pre-application conference with all parties, the developer files an application for development approval with the local government, the RPC, and the state land planning agency (DEO). The RPC reviews the application for sufficiency and may request additional information (no more than twice) if the application is deemed insufficient.[53]

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[47] *See* Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.
[48] Section 380.0651, F.S.
[49] Rule 28-24, F.A.C.
[50] The criteria for qualification as a dense urban land area are contained in s. 380.06(29), F.S. Currently, eight counties and 243 cities qualify as dense urban land areas that are exempt from the DRI program.
[51] Section 380.0651, F.S.
[52] Section 380.06(7), F.S.
[53] Section 380.06(10), F.S.

Once the RPC determines the application is sufficient or the developer declines to provide additional information, the local government must hold a public hearing on the application for development within 90 days.[54] Within 50 days after receiving notice of the public hearing, the RPC is required to prepare and submit to the local government a report and recommendations on the regional impact of the proposed development.[55] The RPC is required to identify regional issues specifically examining the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state (state comprehensive plan) or regional (strategic regional policy plan) plans;
- The development will significantly impact adjacent jurisdictions; and
- In reviewing the first two issues, whether the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.[56]

If the proposed project will have impacts within the purview of other state agencies, those agencies will also prepare reports and recommendations on the issues raised by the project and within their statutorily-prescribed jurisdiction. These reports become part of the RPC's report, but the RPC may attach dissenting views.[57] When water management district (WMD) and Department of Environmental Protection (DEP) permits have been issued pursuant to ch. 373, F.S., or ch. 403, F.S., the RPC may comment on the regional implications of the permits but may not offer conflicting recommendations.[58] Finally, the state land planning agency also reviews DRIs for compliance with state laws and to identify regional and state impacts and to make recommendations to local governments for approving, not approving, or suggesting mitigation conditions.[59]

At the local public hearing on the proposed DRI, concurrent comprehensive plan amendments associated with the proposed DRI must be heard as well. When considering whether the development must be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government considers the extent to which:

- The development is consistent with its comprehensive plan and land development regulations;
- The development is consistent with the report and recommendations of the RPC; and
- The development is consistent with the state comprehensive plan.[60]

Within 30 days of the public hearing on the application for development approval, the local government must decide whether to issue a development order or not. Within 45 days after a development order is or is not rendered, the owner or developer of the property or the state land planning agency may appeal the order to the Governor and Cabinet, sitting as the Florida Land

[54] Section 380.06(11), F.S.
[55] Section 380.06(12), F.S.
[56] Section 380.06(12)(a), F.S.
[57] Section 380.06(12)(b), F.S.
[58] *Id.*
[59] *See* Senate Interim Report 2012-114, *The Development of Regional Impact Process*, Sept. 2011.
[60] Section 380.06(13), F.S. DRIs located in areas of critical state concern must also comply with the land development regulations in s. 380.05, F.S.

and Water Adjudicatory Commission.[61] An "aggrieved or adversely affected party" may appeal and challenge the consistency of a development order with the local comprehensive plan.[62]

Completion of this entire process can take one to two years and require the expenditure of significant resources, both on the part of private developers and state agencies, resulting in costs totaling in the millions of dollars.

***Comprehensive Plans and the Comprehensive Plan Amendment Process***

Completion of the DRI process does not give a developer final authority to build. Rather, the permitting local government almost always must also approve an amendment to its local comprehensive plan prior to construction, and the developer must still obtain all requisite permits.

In 1985, the Florida Legislature passed the landmark Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development. A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first.

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.[63] The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies.[64] These are the same agencies that are required to review proposed DRIs, including the DEO, the relevant RPC, and adjacent local governments that request to participate.[65]

Similar to the DRI process, the state agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region" as well as adverse effects on regional resources or facilities.[66] Upon receipt of the reports from the various agencies the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.[67] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.[68]

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[61] Section 380.07(2), F.S.
[62] Section 163.3215, F.S.
[63] Section 163.3174(4)(a), F.S.
[64] Section 163.3184, F.S.
[65] *Id.*
[66] Section 163.3184(3)(b)3.a., F.S.
[67] Section 163.3184, F.S.
[68] *Id.*

***The Expedited State Review Process vs. the State Coordinated Review Process***

In 2011, the Florida Legislature bifurcated the process for approving comprehensive plan amendments. Most plan amendments were placed into the Expedited State Review Process, while plan amendments related to large-scale developments were placed into the State Coordinated Review Process. The two processes operate in much the same way, however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the DEO, rather than communicated directly to the permitting local government by each individual reviewing agency

***The Intergovernmental Coordination Element (ICE) of a Comprehensive Plan***

Every local government is required to have adopted an ICE into its comprehensive plan.[69] This element is required to demonstrate consideration of the effects of the local plan upon the development of adjacent jurisdictions.[70] It must describe joint processes for collaborative planning and decision-making with regard to the location and extension of public facilities subject to concurrency and the siting of facilities with countywide significance, among other things.[71]

The statutory ICE provisions contain another requirement that is key to effective implementation of interlocal coordination in comprehensive planning and growth management, i.e., that all local governments establish interlocal agreements covering certain topics.[72] The interlocal agreement must:[73]

- Establish joint processes to facilitate coordination;
- Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the comprehensive plan upon development in adjacent jurisdictions; and
- Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

**Sector Plans**

Originally authorized as a pilot program in 1998, the Legislature enacted s. 163.3245, F.S., in 2011 to permit all local governments to adopt a sector plan into their comprehensive plans. The Legislature stated that the sector planning process is "designed to promote and encourage long-term planning for conservation, development and agriculture on a landscape scale as well as facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors."[74]

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[69] Section 163.3177(6), F.S.
[70] Section 163.3177(6)(h)1., F.S.
[71] Section 163.3177(6)(h)2., F.S.
[72] Section 163.3177(6)(h)3., F.S.
[73] *Id.*
[74] Section 163.3245(1), F.S.

Sector plans must be a minimum of 15,000 acres and may not be created within an area of critical state concern.[75] The sector planning process requires two levels of planning:

- Adoption of a long-term master plan (formerly a "conceptual long-term buildout overlay") for the entire planning area as an amendment to the local comprehensive plan adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S.; and
- Adoption by a local development order of two or more detailed specific area plans (DSAP) that implement the long-term master plan and within which DRI requirements are waived.[76]

The law allows a local government, prior to preparing a sector plan, to request a scoping meeting with a developer proposing a sector plan. The scoping meeting must be noticed, open to the public, and conducted by the applicable RPC with affected local governments and certain state agencies. If a scoping meeting is conducted, the RPC must make written recommendations to the DEO and affected local governments on the issues requested by the local government.[77]

Section 163.3245, F.S., specifies that the long-term master plan must include maps, illustrations, and text supported by data and analysis to address and identify:

- A framework map that, at a minimum, generally depicts conservation land use, identifies allowed uses in the planning area, specifies maximum and minimum densities and intensities of use, and provides the general framework for the development pattern;
- A general identification of the water supplies needed and available sources of water, including water resource development and water supply development projects, and water conservation measures needed to meet the projected demand of the future land uses in the long-term master plan;
- A general identification of the transportation facilities to serve the future land uses in the long-term master plan;
- A general identification of other regionally significant public facilities necessary to support the future land uses;
- A general identification of regionally significant natural resources within the planning area and policies setting forth the procedures for protection or conservation of specific resources consistent with the overall conservation and development strategy for the planning area;
- General principles and guidelines addressing, among other things, future land uses, the use of lands identified for permanent preservation through recordation of conservation easements, achieving a healthy environment, limiting urban sprawl, and providing housing types; and
- Identification of general procedures and policies to facilitate intergovernmental coordination to address extrajurisdictional impacts from the future land uses.

The two-level planning process provides that a long-term master plan and a DSAP may be based upon a planning period longer than the planning period of the local comprehensive plan. Both the long-term master plan and the DSAP must specify the projected population within the planning area during the chosen planning period. Concurrent with or subsequent to review and adoption of a long-term master plan, an applicant may apply for approval of a master development order for the entire planning area in order to establish the buildout date for the sector plan.[78]

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[75] *Id.*
[76] Section 163.3245(3), F.S.
[77] Section 163.3245(2), F.S.
[78] Section 163.3245(6), F.S.

A long-term master plan may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period. Neither the long-term master plan nor a DSAP are required to demonstrate need based upon projected population growth or on any other basis.[79] The state land planning agency must consult with certain state and governmental agencies when it is reviewing a long-term master plan.[80]

When a local government issues a development order approving a DSAP, it must provide copies of the order to the state land planning agency and the owner or developer of the property affected by the order according to the rules established for DRI development orders.[81] This order may be appealed by the owner, developer, or state land planning agency to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the DSAP is not consistent with the long-term master plan or the local government's comprehensive plan. The administrative proceeding for review of a DSAP is conducted according to s. 380.07(6), F.S., and the commission must grant or deny permission to develop according to the long-term master plan and may attach conditions or restrictions to its decision. [82]

If a development order is challenged by an aggrieved and adversely affected party in a judicial proceeding pursuant to s. 163.3215, F.S., the state land planning agency, if it has received notice, must dismiss its appeal to the commission and may intervene in the pending judicial proceeding.[83]

Once a long-term master plan becomes legally effective, s. 163.3245, F.S., requires the plan to be connected to any long-range transportation plan developed by a metropolitan planning organization and the regional water supply plan. A WMD also may issue consumptive use permits (CUPs) for the duration of the long-term master plan or DSAP, considering the ability of the master plan area to contribute to regional water supply availability and the need to maximize reasonable-beneficial use of the water resource. The consumptive use permitting criteria must be applied based upon the projected population, the approved densities and intensities of use and their distribution in the long-term master plan, but the allocation of the water may be phased over the duration of the permit to reflect actual projected needs.[84]

When a DSAP becomes effective for a portion of the planning area governed by a long-term master plan, developments within the DSAP are not subject to DRI review.[85] A developer may enter into a development agreement with the local government.[86] The duration of the agreement may be through the planning period of the long-term master plan or the DSAP.[87]

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[79] Section 163.3245(3)(a) and (b), F.S.
[80] Section 163.3245(3)(c), F.S.
[81] Section 163.3245(3)(e), F.S.
[82] *Id.*
[83] *Id.*
[84] Section 163.3245(4), F.S.
[85] Section 163.3245(5), F.S.
[86] Section 163.3245(7), F.S.
[87] *Id.*

Property owners within the planning area of a proposed long-term master plan may withdraw their consent to the master plan prior to adoption by the local government, and the parcels withdrawn will not be subject to the long-term master plan, any DSAP, or the exemption from DRI review.[88] After the local government adopts the long-term master plan, a property owner may withdraw from the master plan only if the local government approves by adopting a plan amendment.[89]

Existing agricultural, silvicultural, and other natural resource activities are protected by s. 163.3245, F.S., within a long-term master plan or a DSAP.[90] The law also protects properties against downzoning, unit density reduction, or intensity reduction in the DSAP until the buildout date.[91]

***Rural Areas of Opportunity***

Rural Areas of Opportunity (RAOs) are rural communities, or regions composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. The Governor, by executive order, may designate up to three RAOs, which establishes each region as a priority assignment for the Rural Economic Development Initiative agencies and allows the Governor to waive criteria of any economic development incentive including, but not limited to:

- The Qualified Target Industry Tax Refund Program under s. 288.106, F.S.;
- The Quick Response Training Program and the Quick Response Training Program for participants in the welfare transition program under s. 288.047, F.S.;
- Transportation projects under s. 288.063, F.S.;
- The brownfield redevelopment bonus refund under s. 288.107, F.S.; and
- The rural job tax credit program under ss. 212.098 and 220.1895, F.S.[92]

***Regional Water Supply Plans***

Section 373.709, F.S., requires each WMD to conduct water supply planning for a water supply planning region where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. Each regional water supply plan must be based on at least a 20-year planning period and must include, at a minimum:

- A water supply development component for each water supply planning region identified by the WMD;
- A water resource development component;
- A recovery or prevention strategy;
- A funding strategy;
- Consideration of how the project options in the plan serve the public interest or save costs;
- The technical data and information applicable to each planning region;

[88] Section 163.3245(8), F.S.
[89] *Id.*
[90] Section 163.3245(9), F.S.
[91] Section 163.3245(5)(d), F.S.
[92] Department of Economic Oppotunity, *Rural Areas of Opportunity, available at* http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity (last visited Apr. 9, 2015).

- The minimum flows and levels established for water resources;
- Reservations of water adopted by rule;
- Identification of surface waters or aquifers for which minimum flows and levels are scheduled to be adopted; and
- An analysis of areas or instances in which variances may be used to create water supply or water resource development projects.[93]

***Basin Management Action Plans***

Basin Management Action Plans (BMAPs) address pollutant loading in impaired waterbodies so they meet their total maximum daily loads. A total maximum daily load is the amount of a pollutant a waterbody may assimilate and still meet water quality standards. The plans equitably allocate pollutant reductions to individual basins, as a whole to all basins, or to each identified source of pollution. BMAPs then establish schedules for implementing projects and activities to meet pollution reduction allocations.[94]

***Consumptive Use Permits***

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily by a permittee. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as "the three-prong test." Under s. 373.223, F.S., the proposed water use must:

- Be a "reasonable-beneficial use" as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.

**Connected-city Corridors**

***Local Government Comprehensive Planning Certification Program***

In 2002, the Florida Legislature created the Local Government Comprehensive Planning Certification Program[95] to establish a process that requires less state and regional oversight of the comprehensive plan amendment process for local governments that identify a geographic area for certification within which they commit to directing growth. Section 163.3246, F.S., allows the DEO to enter into up to eight new certification agreements each year. To be eligible, a local government must demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan and demonstrate technical, financial, and administrative expertise. The local government must also demonstrate that it has adopted programs in the comprehensive plan and land development regulations that:

- Promote infill development and redevelopment, including prioritized and timely permitting processes;
- Promote affordable housing for low-income and very low-income households or specialized housing to assist elderly and disabled persons;

[93] Section 373.709, F.S.
[94] Section 403.067(7), F.S.
[95] Chapter 2002-296, L.O.F., and s. 163.3246, F.S.

- Achieve effective intergovernmental coordination and address extrajurisdictional effects of development;
- Promote economic diversity and growth while encouraging the protection and restoration of the environment;
- Provide and maintain public urban and rural open space and recreational opportunities;
- Manage transportation and land uses to support public transit and promote opportunities for pedestrian and non-motorized transportation;
- Use design principles to promote individual community identity;
- Redevelop blighted areas;
- Adopt a local mitigation strategy and have programs to improve disaster preparedness;
- Encourage clustered, mixed-use developments;
- Encourage urban infill and discourage urban sprawl;
- Assure protection of key natural areas and agricultural lands; and
- Ensure the cost-efficient provision of public infrastructure and services.[96]

The DEO may revoke the local government's certification if the local government is not in compliance with the terms of the certification agreement.[97] The DEO's decision to revoke a certification is subject to challenge under s. 120.569, F.S. The DEO indicated that four local governments have been certified under the program – the cities of Orlando, Lakeland, Miramar, and Freeport. [98]

Under current law, no connected-city corridor specific development approval process exists.

***Special Districts***

Special districts are a unit of local government created for a special purpose, as opposed to a county or municipality that exists to provide a wide range of general purpose services. A special district has jurisdiction to operate within limited geographical areas, which are used to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services.[99] Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

There are a total of 1,636 active special districts in Florida. The Special District Information Program within the DEO serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function which can include community development districts (CDDs) (592), community redevelopment districts (216), downtown development districts (14), drainage and water control districts (86), economic development

[96] Section 163.3246(2)(e), F.S.
[97] Section 163.3246(12), F.S.
[98] Department of Economic Opportunity, Division of Community Development, *Local Government Comprehensive Planning Certification Program – 2013 Report* (July 1, 2013).
[99] Chapter 189, F.S., applies to the formation, governance, administration, supervision, merger, and dissolution of special districts unless otherwise expressly provided in law.

districts (12), fire control and rescue districts (63), mosquito control districts (18), and soil and water conservation districts (58).[100]

*Community Development Districts*

CDDs are a type of special district created pursuant to ch. 190, F.S. The purpose of a CDD is to provide an "alternative method to manage and finance basic services for community development."[101] Counties and cities may create CDDs of less than 1,000 acres.[102] CDDs larger than 1,000 acres can only be created by the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.[103] Chapter 190, F.S., provides that CDDs must comply with many of the same requirements that apply to other special districts.

## III. Effect of Proposed Changes:

**Section 1** amends s. 163.08, F.S., to allow supplemental authority for financing sinkhole-related improvements to real property. The bill establishes a finding of a compelling state interest in providing local government assistance that enables property owners to finance qualified improvements to property damaged by sinkhole activity. The bill expands the definition of "qualifying improvement" to include stabilization or other repairs to property damaged by sinkhole activity. The bill provides that a sinkhole-related qualifying improvement is deemed affixed to a building or facility; and provides that a disclosure statement to that effect be given to a prospective purchaser of the property.

**Section 2** repeals s. 163.3175(9), F.S., requiring a local government and certain other parties to enter into mediation if the local government does not address the compatibility of lands adjacent to military installations in its future land use plans. All local governments adjacent to military installations have already completed this task.

**Section 3** amends s. 163.3184, F.S., to require a comprehensive plan amendment related to a development that qualifies as a DRI pursuant to s. 380.06, F.S., to be reviewed under the State Coordinated Review Process.

**Section 4** amends s. 163.3245, F.S., to update the sector plan law. The bill clarifies that the planning standards of s. 163.3245(3)(a), F.S., concerning long-term master plans, supersede generally applicable planning standards elsewhere in ch. 163, F.S.

The bill also clarifies that the planning standards of s. 163.3245(3)(b), F.S., concerning DSAPs, supersede generally applicable planning standards elsewhere in ch. 163, F.S.

The bill allows conservation easements associated with a long-term master plan or a DSAP to be based on digital orthophotography prepared by a surveyor and mapper licensed under ch. 472, F.S., and may include a right of adjustment authorizing the developer, with the consent of the

[100] Data as of April 2015. Information relating to special districts and their functions can be found in the SDIP online publication "Florida Special District Handbook Online," *available at* http://www.floridaspecialdistricts.org/handbook/ (last visited Apr. 9, 2015).
[101] Section 190.002(3), F.S.
[102] Section 190.005(2), F.S.
[103] Section 190.005(1), F.S.

local government, to modify portions of the area protected by the easement to substitute other lands by recording an amendment to the conservation easement. The bill requires that those substitute lands:

- Contain no less gross acreage than the lands to be removed;
- Have equivalent values in the proportion and quality of wetlands, uplands, and wildlife habitat; and
- Be contiguous to other lands protected by the easement.

The bill requires the applicant for a DSAP to transmit copies of the application to the reviewing agencies specified in s. 163.3184(1)(c), F.S., or their successor agencies,[104] for review and comment as to whether the DSAP would be consistent with the comprehensive plan and the long-term master plan. Any comments from those reviewing agencies must be submitted in writing to the host local government within 30 days after the applicant's transmittal of the application.

The bill authorizes the DEP, the Fish and Wildlife Conservation Commission, or the WMD to accept wetland or upland preservation lands previously designated as conservation lands in relation to the development of a sector plan for the purposes of compensatory mitigation related to permitting under chs. 373 or 379, F.S., without considering that those lands are already encumbered by a previously recorded conservation easement.

The bill clarifies that neither a long-term master plan nor a DSAP limits the right to establish new agricultural or silvicultural uses that are consistent with the sector plan.

The bill authorizes an applicant with an approved master development order to request that the applicable WMD issue a CUP for the same period of time as the approved master development order.

The bill states that the more specific provisions of s. 163.3245, F.S., shall supersede the generally applicable provisions of ch. 163, F.S., which would otherwise apply. However, the bill clarifies that the sector plan law does not preclude a local government from requiring data and analysis beyond the minimum criteria it establishes.

**Section 5** amends s. 163.3246, F.S., to provide legislative intent to:

- Encourage the creation of connected-city corridors that facilitate the growth of high-technology industry and innovation through partnerships that support research, marketing, workforce and entrepreneurship.
- Provide for a locally controlled, comprehensive plan amendment process for such projects that are designed to:
  - Achieve a cleaner, healthier environment;
  - Limit urban sprawl by promoting diverse but interconnected communities;

[104] Section 163.3184(1)(c), F.S., defines "reviewing agencies" as: the state land planning agency (DEO); the appropriate RPC; the appropriate WMD; the DEP; the Department of State; the Department of Transportation; and, under specific circumstances, the Department of Education; the commanding officer of an affected military installation; the Fish and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services; and the county in which the municipality is located.

- Provide a range of intergenerational housing types;
- Protect wildlife and natural areas;
- Assure the efficient use of land and other resources;
- Create quality communities of a design that promotes alternative transportation networks and travel by multiple transportation modes; and
- Enhance the prospects for the creation of jobs.

The bill includes a legislative finding and declaration that this state's connected-city corridors require a reduced level of state and regional oversight because of their high degree of urbanization and the planning capabilities and resources of the local government.

The bill creates a 10-year pilot project in Pasco County for connected-city corridor plan amendments. Plan amendments may be based on a longer than normal planning period and are not required to demonstrate need based on projected population growth or any other basis.

The DEO must certify the pilot program, including the boundary of the connected-city corridor certification area, by July 15, 2015. Pasco County is required to submit an annual or biennial monitoring report to the DEO. The report must include at a minimum:

- The number of amendments to the comprehensive plan adopted by Pasco County;
- The number of plan amendments challenged by an affected person; and
- The disposition of the challenges.

If Pasco County adopts a long-term transportation network plan and financial feasibility plan then projects within the connected-city corridor are deemed to have satisfied all concurrency and transportation mitigation requirements. Projects located within the Pasco connected-city corridor are exempt from DRI review requirements.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to submit a report to the Governor and Legislature by December 1, 2024, regarding the pilot project and provide recommendations for change and other local governments that should be certified to participate.

The bill repeals requirements related to an application for development approval filed by a developer proposing a project that would have been subject to review pursuant to s. 380.06, F.S., if the local government with jurisdiction over the project had not been certified to review such projects pursuant to s. 163.3246, F.S. Current law requires the developer to notify the RPC of submitting such an application to the local government. The RPC is required to coordinate with the developer and the local government to ensure that all concurrency and environmental permit requirements are met. The bill repeals these requirements because certification program participants are few and these provisions have had little effect, according to the Florida Regional Council Association (FRCA).[105]

**Section 6** amends s. 163.3248(4), F.S., to remove a statutory reference to RPCs related to rural land stewardship areas. The reference is unnecessary because the action it purports to authorize can be performed with or without the reference.

[105] The FRCA is the statewide organization of the RPCs.

**Section 7** amends s. 163.340, F.S., to add certain sinkhole activity to the list of factors that define a "blighted area." Specifically, the definition is expanded to account for land that has a "substantial number or percentage of properties" that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. Thus, the bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through TIF.

**Section 8** amends s. 163.524, F.S., to conform a cross-reference.

**Section 9** repeals s. 186.0201, F.S., requiring electric utilities to provide RPCs with advisory reports on their plans for electric utility substation development over the next 5 years.

**Section 10** amends s. 186.505(22), F.S., to delete the duty of RPCs to establish and conduct a cross-acceptance negotiation process with local governments. According to FRCA, no council has ever been requested to perform this duty.

**Section 11** creates s. 186.512, F.S., to designate 10 RPCs and their constituent counties. The Withlacoochee Regional Planning Council is dissolved and the 5 counties currently within the boundaries of that council are incorporated into 3 existing councils:

- Levy and Marion counties – North Central Florida Regional Planning Council;
- Sumter County – East Central Florida Regional Planning Council; and
- Citrus and Hernando counties – Tampa Bay Regional Planning Council.

The section also provides that beginning January 1, 2016, the Governor may review and update the district boundaries of the RPCs. The bill states that, for purposes of transition from one RPC to another, the successor RPC shall apply the prior strategic regional policy plan to a local government until such time as the successor RPC amends its plan to include the affected local government within the new region.

**Section 12** amends s. 186.513, F.S., to repeal the requirement that RPCs make a joint report and recommendations to the appropriate legislative committees. However, the RPCs must still make individual reports to the state land planning agency.

**Section 13** amends s. 190.005, F.S., to provide that the exclusive method of establishing a CDD of 2,000 acres or less within a connected-city corridor is by adoption of an ordinance by the county commission. The bill also exempts CDDs within both a connected-city corridor and the jurisdiction of more than one city from a requirement that the petition establishing the district be filed with the Florida Land and Water Adjudicatory Commission.

**Section 14** amends s. 253.7828, F.S., to repeal the specific mandate that RPCs, among other state agencies, recognize the special character of the Cross Florida Greenways State Recreation and Conservation Area. This mandate is unnecessary, according to the FRCA.

**Section 15** repeals s. 260.018, F.S., requiring all local governments, state agencies, and RPCs to recognize the special character of the state's greenways and trails, because this statute does not appear to be necessary.

**Section 16** amends s. 339.135(4), F.S., to repeal language related to the 2014-2015 transportation work program that is set to expire on July 1, 2015.

**Section 17** amends s. 339.155(4), F.S., to repeal the requirement that RPCs review urbanized area transportation plans and any other planning products stipulated in s. 339.175, F.S., and provide written recommendations. It also repeals the requirement that RPCs directly assist local governments that are not part of a metropolitan area transportation planning process in the development of the transportation element of their comprehensive plans. These duties can be performed without the statutory reference, making it unnecessary.

**Section 18** amends s. 373.236, F.S., to authorize a WMD to issue a permit to an applicant for the same time period as the applicant's approved master development order if the order was issued subject to the following requirements:

- It was issued by a county which, at the time the order was issued, was designated as an RAO pursuant to s. 288.0656, F.S.;
- It was not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), F.S.; and
- It was not located within the BMAP of a first magnitude spring.[106]

In reviewing the permit application, the WMD must apply the permitting criteria in s. 373.223, F.S., based on the projected population and approved densities and intensities of use and their distribution in the master development order. However, the WMD may phase in the water allocation over the duration of the permit to correspond to actual projected needs. This subsection does not supersede the public interest test established in s. 373.223, F.S.

**Section 19** amends s. 380.06, F.S., to provide that new developments will not be subject to the DRI review requirements provided by s. 380.06, F.S. However, already existing developments of regional impact will continue to be governed by s. 380.06, F.S.

The bill repeals the requirement that an RPC notify a local government if it does not receive a biennial report from a developer related to a DRI.

**Section 20** amends s. 403.50663(2) and (3), F.S., to repeal the statutory option that an RPC hold an informational public meeting if a local government elects not to do so. The bill amends the statute to state that it is the legislative intent that local governments hold such a meeting, rather than local governments or RPCs hold the meeting.

**Section 21** repeals s. 403.507(2)(a)5., F.S., requiring that an RPC prepare a report regarding the impacts of a proposed electrical power plant and its consistency with the strategic regional policy plan. According to the FRCA, the statutory mandate is duplicative and unnecessary.

[106] First magnitude springs are springs that have a median water discharge greater than or equal to 100 cubic feet per second for the period of record.

**Section 22** amends s. 403.508(3)(a) and (4)(a), F.S., to repeal the requirement that RPCs participate in land use and certification hearings regarding a proposed power plant facility. Several other state agencies are still required to participate.

**Section 23** amends s. 403.5115(5), F.S., to repeal the requirement that an RPC publish a notice of an informational public hearing. Local governments holding a hearing are still required to publish a notice of the hearing.

**Section 24** repeals s. 403.526(2)(a)6., F.S., requiring that RPCs prepare a report on the impacts of a proposed electrical transmission line or corridor and its consistency with the strategic regional policy plan, because the requirement is duplicative and unnecessary.

**Section 25** amends s. 403.527(2)(a) and (3)(a), F.S., to repeal the requirement that RPCs participate in land use and certification hearings regarding a proposed electrical transmission line or corridor. A number of state agencies are still required to participate.

**Section 26** amends s. 403.5272(2) and (3), F.S., to repeal the option that an RPC hold an informational public meeting if a local government elects not to do so. The bill amends the statute to state that it is the legislative intent that local governments hold such a meeting, rather than local governments or RPCs hold the meeting.

**Section 27** repeals s. 403.7264(4), F.S., requiring RPCs to assist the DEP in site selection, public awareness, and program coordination related to amnesty days for purging small quantities of hazardous wastes. According to FRCA, the DEP has never asked for this assistance and the statutory direction is unnecessary.

**Section 28** repeals s. 403.941(2)(a)6., F.S., requiring RPCs to present a report on the impacts of a proposed natural gas transmission pipeline or corridor and the pipeline or corridor's consistency with the strategic regional policy plan because the requirement is duplicative and unnecessary.

**Section 29** amends s. 403.9411(4)(a) and (6), F.S., to repeal the requirement that RPCs participate in a certification hearing regarding siting of natural gas transmission pipeline corridors.

**Section 30** amends s. 419.001(6), F.S., to repeal statutory authorization for a community residential home and a local government to utilize dispute resolution procedures provided by an RPC. According to FRCA, this provision has never been utilized and a community residential home and a local government could utilize the RPC for dispute resolution regardless of whether this statutory provision exists.

**Section 31** amends s. 985.682(4), F.S., to repeal statutory authorization for the Department of Juvenile Justice and local governments to utilize dispute resolution procedures provided by an RPC. According to FRCA, this provision has never been utilized and is unnecessary to allow the department to utilize the RPC for dispute resolution services.

**Section 32** provides that the bill will be effective upon becoming law.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

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

None.

### C. Trust Funds Restrictions:

None.

### D. Other Constitutional Issues:

Section 163.08, F.S., amended by section 1 of this bill, is the subject of litigation in the Florida Supreme Court. In *Florida Bankers Association v. State*, Case No. SC14-1603, the Court is considering whether the statute impairs contractual obligations in violation of Part. 1, s. 10, Florida Constitution. In *Reynolds v. State*, Case No. SC14-1618, the Court is considering whether a financing agreement created pursuant to s. 163.08, F.S., impairs contractual obligations. The Court has scheduled oral argument in both cases for May 7, 2015.

Section 163.08(8), F.S., provides that an assessment levied to fund a qualifying improvement is senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. An issue in the pending court cases is whether the provision making the assessment senior to existing mortgages impairs the mortgage contracts in violation of Art. I, s. 10 of the Florida Constitution.

Section 1 of this bill contains a finding of a compelling government interest in providing local government assistance to enable property owners to effect improvements on property damaged by sinkhole activity. In *Pomponio v. Claridge of Pompano Condo. Inc.*, 378 So.2d 774, 780 (Fla. 1979), the court explained that whether a statute impermissibly impairs contractual obligations is a "balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state's objective, or whether it unreasonably intrudes into the parties' bargain to a degree greater than is necessary to achieve that objective."

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of this bill.

## B. Private Sector Impact:

Owners of property damaged by sinkhole activity will be able to enter into financing agreements with a local government that passes an ordinance or adopts a resolution to participate in the program established in s. 163.08, F.S.

CRAs will be able to develop a community redevelopment plan utilizing the expanded definition of "blighted area" to include land that has been "damaged by sinkhole activity which have not been adequately repaired or stabilized." As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF.

Deleting duplicative statutory duties assigned to RPCs may have a positive, but indeterminate, fiscal impact to the private sector.

This bill will prevent future developments from being required by state law to undergo the DRI review process, which could reduce costs for those types of developments that would otherwise have qualified as a DRI.

Private developers may benefit from the provisions of the bill which provide that projects within the connected-city corridor are deemed to have satisfied all concurrency and transportation mitigation requirements and that such projects are exempt from the DRI review requirements.

## C. Government Sector Impact:

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of "blighted area" to include land that has a "substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized." This could result in a portion of the ad valorem taxes from those lands being used for TIF.

Dissolving the Withlacoochee Regional Planning Council and deleting duplicative statutory duties assigned to RPCs may have a positive, but indeterminate, fiscal impact to state and local governments.

This bill will reduce the number of duplicative reviews that state agencies must perform with relation to the same developments. This could result in cost savings for those state agencies.

According to the DEO, there will be some costs associated with the review of and comment on documents submitted concerning DSAPs. The costs are dependent on the number of applications submitted, but will likely be negligible.

The bill authorizes a local review process for comprehensive plan amendments in the connected-city corridor rather than a state review process which could reduce the need for the DEO's resources for such reviews. The long-term governmental costs associated

with projects within the connected-city corridor being deemed to have satisfied all concurrency and transportation mitigation requirements and being exempt from DRI review requirements are unknown.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.08, 163.340, 163.3175, 163.3184, 163.3245, 163.3246, 163.3248, 163.524, 186.505, 186.513, 190.005, 253.7828, 339.135, 339.155, 373.236, 380.06, 403.50663, 403.507, 403.508, 403.5115, 403.526, 403.527, 403.5272, 403.7264, 403.941, 403.9411, 419.001, and 985.682.

This bill creates section 186.512 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 186.0201 and 260.018.

## IX. Additional Information:

### A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Fiscal Policy on April 9, 2015:**
The amended bill authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of "blighted area," enabling CRAs to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The bill designates 10 RPCs and their borders. The Withlacoochee Regional Planning Council is dissolved and the five counties currently within that council are incorporated into three other councils. The bill deletes several of the RPCs' statutory duties and requirements because they are already completed, unnecessary or duplicative.

The bill removes the state mandate that new developments surpassing certain thresholds and standards be subjected to the DRI review process. The bill shifts comprehensive plan amendments related to such developments from the Expedited State Review Process to the State Coordinated Review Process.

The bill clarifies the sector plan law. It states that the planning standards of the sector planning statute supersede generally applicable planning standards elsewhere in ch. 163, F.S. The bill provides more flexibility in the designation of conservation easements related to sector plans. The bill requires certain state agencies to review an application for

a DSAP to determine whether the development would be consistent with the comprehensive plan and the long-term master plan. It provides that a WMD may issue a CUP for the same time period as a master development order if the project meets certain requirements. The bill provides that a district may phase in the water allocation over the duration of the permit to correspond to the actual needs of the development.

The bill names Pasco County as a pilot community for connected-city corridor plan amendments. The bill exempts projects within a connected-city corridor from the DRI review process. The bill requires CDDs located within a connected-city corridor and less than 2,000 acres to be established pursuant to a county ordinance. The bill directs the OPPAGA to submit a report on the pilot project to the Governor and Legislature in 10 years.

**CS by Community Affairs on March 17, 2015:**

- Creates a 10-year pilot project and names Pasco County as a pilot community.
- Describes connected-city corridor plan amendments and provides certain requirements and optional features.
- Provides a concurrency exemption for certain connected-city corridors.
- Provides a DRI exemption.
- Directs the OPPAGA to submit a report to the Governor and Legislature.
- Provides the exclusive method of establishing certain CDDs.

## B. Amendments:

None.