Memorandum

MIAMI-DADE COUNTY

Date:	February 17, 2009
To:	Honorable Chairman Dennis C. Moss, And Members, Board of County Commissioners
From:	George M. Burgess County Manager
Subject:	Supplemental information to Agenda Item No. 11A9, Legistar No. 090335, Pertaining to SB 630 and Similar Legislation-- Policy Analysis of Senate Bill 360

Supplement #2 to Agenda Item No.11A(9)

Policy Analysis of Senate Bill 360

The statutory changes being proposed are not consistent with the current growth management policies and practices of Miami-Dade County. Specifically this bill is contrary to the County policies that are intended to manage urban sprawl, as well as other growth management policies that have long been the foundation of our Comprehensive Development Master Plan (CDMP). Furthermore, the proposed would be inconsistent with State and regional comprehensive plans.

The applicability of SB 360 hinges on whether local governments meet the definition of a "dense urban land area" (having an average of at least 1,000 people per square mile of land area). Miami-Dade County would meet the definition for the "dense urban land area" as proposed in the committee substitute version of SB 360.

Although a fiscal component is not specifically identified in the proposed bill, a significant fiscal impact to the County can be expected. This fiscal impact would result in additional service and capital expenditures that the County will need to assume from the added service or capital cost from unfunded development related to impacts.

The following analysis highlights the potential impact of the significant provisions of SB 360 to Miami-Dade County:

Transportation Concurrency Exception Areas:

Miami-Dade County currently has a Transportation Concurrency Exception Area for the area generally described as east of the Palmetto Expressway. The proposed Senate Bill 360 would expand the exception area to include the entire County if the definition of a "dense urban land area" is applied county-wide. The affect of this proposal would encourage urban sprawl by allowing development to occur in areas without improved or expanded roadways and would increase traffic congestion by reducing or eliminating developer required roadway improvements. In addition this provision would be counter to current policies in our CDMP that, among others, encourage compact urban development, infill and redevelopment. The responsibility of providing the roadways to mitigate the impacts from development could be disregarded by the developer or shifted to Miami-Dade County and other governmental agencies. Furthermore, the bill would preclude or compromise the coordination of adequate transportation facilities with land uses, which is a fundamental policy of Smart Growth and Growth Management practices. The bill does however promote multimodal transportation alternatives and thereby could also affect transit

planning and services, even though many urban areas are reducing transit services in response to current revenue shortfalls.

Expedited alternatives state review of future land use map amendments:

The proposed legislation would reduce the State's authority and procedures for local Land Use Plan amendments and could change the voting provisions of local governments for such amendments. The proposed "simple majority" approval of an application by those Commissioners present at a meeting conflicts with Miami-Dade County's requirements for a majority of the total membership of the County Commission for standard plan amendments and the requirement for 2/3 of the total Commission membership for a UDB amendment.

The absence of the Department of Community Affairs (DCA) review and their Objections, Recommendations and Comments (ORC) report for local plan amendments would compromise the completeness and accuracy of a comprehensive review (local, regional and state agencies). This provision would also limit and burden intergovernmental coordination.

Development of Regional Impact (DRI) Exemption:

This provision could eliminate the DRI process and thereby eliminate the coordination of regional and intergovernmental reviews of large scale, significant land development projects. An important component of the current DRI process relates to the analysis of project impacts and related mitigation. Senate Bill 360 could severally limit or preclude the extra jurisdictional review of impacts and the mechanism to mitigate such impacts. This situation could create a significant backlog in the infrastructure needed for the proposed development and/or shift the responsibility of providing such infrastructure to Miami-Dade County and other governmental agencies.

DRIs are more complex than regular plan amendments and as such must be given adequate time and coordination to insure maximum benefits and reduced impacts will be achieved. The bill could substantially reduce the timeframes necessary to thoroughly evaluate the short and long-term impacts of regional projects to communities. However, in absence of a DRI process this bill could result in additional regulations, review, approvals and procedures at the local jurisdiction and other governmental levels.

As a final note, the Florida Association of Counties (FAC) has also submitted comments raising concerns about the proposed bill (attached). The FAC addressed the same major components of the proposed bill as outlined above and raised similar concerns.

Assistant County Manager

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February 10, 2009

VIA HAND DELIVERY

The Honorable Michael S. "Mike" Bennett
The Florida Senate
306 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: Proposed Growth Management Bill

Dear Senator Bennett:

I want to thank you for giving the Florida Association of Counties (FAC) the opportunity to comment and offer suggestions to the proposed growth management bill discussed at last week's Select Committee on Florida's Economy meeting. While we appreciate the overall intent and goal of the bill, there are certain provisions that we have concerns with and would like to offer some alternatives for your consideration. In addition, there is one provision of the bill that we think the committee can actually expand on, and we have provided a specific recommendation for that issue as well.

CONCURRENCY

Target Concurrency Exceptions to Built-up Areas Where Other Infrastructure is Available

Last year, the Department of Community Affairs proposed, and much of the development community supported, blanket concurrency exceptions for areas designated for urban infill and urban redevelopment. Recognizing these are the primary areas where development is constrained by transportation concurrency and are where communities want to encourage growth, we suggest concurrency exceptions apply only to these areas, rather than county-wide.

While this is a preferred alternative of FAC, if there is a commitment to broaden exception areas beyond these traditionally targeted areas, we suggest the committee consider two other options below:

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(1) Target Concurrency Exceptions to Projects That Create New Jobs
Recognizing the intent of the bill is to stimulate economic growth, we suggest concurrency exceptions be more targeted and apply to those projects that demonstrate job creation within the community. This criterion could be applied broadly and defined locally, with the goal of eliminating one potential obstacle to local job creation.

(2) Restrict Concurrency Exceptions Outside of Urban Service Areas
A number of local governments have developed comprehensive strategies to discourage sprawl and facilitate compact growth by establishing urban service areas. These are areas where infrastructure has been properly planned and consideration of other travel modes – namely, transit – have been planned. In consideration of these issues, we suggest that concurrency exceptions not apply outside of these designated areas, which are typically less dense and include natural areas that are valued by the community.

DEVELOPMENTS OF REGIONAL IMPACT
Maintain Intergovernmental Coordination Provisions

FAC recognizes that the DRI process can often be cumbersome, long, and expensive. Our association also acknowledges that appropriate changes to the program are warranted. However, from the county perspective, one of the most important aspects of the DRI process is the intergovernmental coordination component, which allows adjacent local governments to comment on how a large-scale development will impact their community. This is particularly critical for transportation, where impacts from a DRI almost always affect roads of neighboring jurisdictions. Under the current DRI process, the jurisdiction approving the development must work with the adjacent communities to ensure transportation issues are properly addressed. Absent this mandatory provision, there is no obligation for such coordination.

Should the Legislature elect to eliminate the DRI program in certain areas of the state, we suggest that it be balanced with some provision that ensures some type of infrastructure coordination occurs among the adjacent local governments for DRI-type projects.

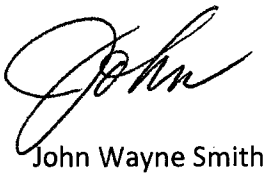
LOCAL COMPREHENSIVE PLANS
Expand the Alternative State Review Process

In 2007, the Legislature created a pilot program to expedite state review of comprehensive plan amendments by selected local governments. Under the program, two counties and four cities

are designated as pilot communities. According to a November 2008 OPPAGA report, under statutory timelines, the alternative state review process reduced the time allocated for state review by 71 days. The report also states that of the 324 plan amendments reviewed by the Department of Community Affairs, only one has been challenged by the agency through the administrative hearing process. While this program is still relatively new, the Legislature could consider expanding it to other local governments using some basic standards to qualify. Such standards could include whether the local government has a plan in compliance with state law, whether it has completed its Evaluation and Appraisal Report (EAR), and whether it has a demonstrated history of responsible planning.

Again, on behalf of the Florida Association of Counties, I want to thank you for giving us the opportunity to comment and offer suggestions to the bill. If you have any specific questions or would like to discuss any of these issues in detail, please do not hesitate to call me at (850) 922-4300.

Sincerely,



John Wayne Smith
Legislative Director

JWS/ESP/rb

cc: Senate Select Committee on Florida's Economy
Senate Community Affairs Committee
Senate President Jeff Atwater
Commissioner Rodney Long (Alachua), FAC President
Commissioner Ilene Lieberman (Broward), FAC President-Elect
Commissioner Doug Smith (Martin), FAC First Vice President
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