



Tallahassee Report

Below please find background information of legislation that was recently signed by the Governor of relevance to Miami-Dade County.

SB 360 – Growth Management

This legislation, titled “Community Renewal Act”, was designed to encourage smart growth. The bill also helps to continue development rights in pending projects that have been stalled by the recession. Some of the key elements of the bill include the following:

Redefined “Existing Urban Service Area” and “Dense Urban Land Area”

- *As defined, a “Dense Urban Land” Area means a local government having an average of at least 1,000 people per-square mile of land area, or a county, including all cities located therein, which has a population of at least 1 million, according to the latest census and latest population estimates from the Office of Economic and Demographic Research.*
- *The bill defines “dense urban land area” as:*
 - 1.) *A municipality that has an average of at least 1,000 people per square mile of land area and a minimum total population of at least 5,000;*
 - 2.) *A county, including the municipalities located therein, which has an average of at least 1,000 people per square mile of land area; or*
 - 3.) *A county, including the municipalities located therein, which has a population of at least 1 million.*
- *The following 8 counties meet this definition:
Broward, Duval, Hillsborough, Miami-Dade, Orange, Palm Beach (based on total pop. threshold), Pinellas, and Seminole.*
- *A city having an average of at least 1,000 people per square mile and a total population of 5,000. This includes approximately 190 cities affecting another 24 counties statewide.*
- *An “Existing Urban Service Area” includes areas designated in the comprehensive plan as of July 1, 2009 for urban development, where public facilities are in place or are committed in the first 3 years of the capital improvement schedule.*

School Concurrency/ Transportation Concurrency

- Creates transportation concurrency exception areas (TCEAs) in the following areas:
 - 1.) Cities that qualify as dense urban land areas
 - 2.) Urban service areas that have been adopted into the comprehensive plan and are within counties that qualify as dense urban land areas.
 - 3.) Counties, including cities therein, that have a population of at least 900,000, that qualify as a dense urban land area but do not have an urban service area designated in the comprehensive plan. This includes Broward and Pinellas Counties.
- Requires dense urban land area communities to adopt transportation mobility strategies within designated exception areas within 2 years. DCA may submit its findings to the Administration Commission if such strategies are not adopted within this time period.
- Exempts counties that have a population of at least 1.5 million and implement a transportation concurrency-related assessment to support alternative modes of transportation.
- TCEAs are not created for a county that has exempted more than 40% of its urban service area from transportation concurrency for purposes of infill.
- Eliminates the penalty (i.e., FLUM amendments that increase density) for failing to adopt a public school facilities element and entering into an interlocal agreement.
- However, DCA is required to submit a finding to the Administration Commission if it finds insufficient cause by the local government for not adopting a school facilities element into its plan.
- Requires school districts to include relocateable facilities (a.k.a. portables) in its level-of-service (LOS) calculations if such facilities are used in the student station inventory.

Dense Urban Land Area – Local Opt-In

- Counties and cities that do not qualify as dense urban land areas may designate in the comprehensive plan the following areas as TCEAs:
 - 1.) Urban Infill Development
 - 2.) Urban Infill and Redevelopment
 - 3.) Urban Service Areas
- The DRI process in these locally designated areas does not apply.

Impact Fees and Security Camera Standards

- The bill authorizes a county or municipality to decrease, suspend or eliminate an impact fee without waiting the 90 day notice period that applies to a new or increased impact fee.
- The bill prohibits a county, municipality, or other entity of local government from adopting or maintaining standards for security cameras that “require a lawful business to expend funds to enhance the services or functions provided by local government unless specifically provided by general law.” The bill also states that the restriction is not to be construed as limiting “the ability of a county, municipality, airport, seaport, or other local governmental entity to adopt standards for security cameras in publicly operated facilities, including standards for private businesses operating within such public facilities pursuant to a lease or other contractual arrangement.”

Developments of Regional Impact

- Eliminates the DRI program in Dense Urban Land Areas
- Retains requirement that development orders from DRI-size projects (even though exempt under proposal) be reviewed by state land planning agency.

Financial Feasibility

- *Extends compliance deadline to December 2011.*

Mobility Fee Study and Report

- *The bill requires the completion by DCA and DOT of their mobility fee studies, and directs that a joint report be submitted to the President of the Senate and the Speaker of the House of Representatives, no later than December 1, 2009, on the mobility fee methodology study, complete with recommended legislation and a plan to implement the mobility fee as a replacement for the existing local government adopted and implemented transportation concurrency management systems. The final joint report also is required to contain, but is not limited to, an economic analysis of implementation of the mobility fee, activities necessary to implement the fee, and potential costs and benefits at the state and local levels and to the private sector.*

Permit Extensions

Extends any local government development order or building permit issued between September 1, 2008 through January 1, 2012 for an additional 2 years

- *Permits extended by the bill continue to be governed by rules in effect at the time the permit was issued, except when it can be demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. The same standards apply to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification cannot extend the time limit beyond 2 additional years.*
- *The bill provides that nothing in the permit extension portion of the bill impairs the authority of a county or municipality to require the owner of a property, that has notified the county or municipality of the owner's intention to receive the extension of time granted by this section, to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances.*

Zoning/Land Use Approvals

- *Requires zoning changes to be made simultaneously with any plan amendments if requested by the applicant. Zoning changes take effect upon the comprehensive plan amendment becoming effective.*

Security Standards Prohibited

- *Prohibits local governments from adopting or maintaining in effect any ordinance or rule that establishes standards for security cameras that require a business to expend funds to enhance the services provided by local government.*

Affordable Housing

The bill incorporates the language from SB 1042 relating to affordable housing by Sen. Bennett. Those provisions of the bill are listed below:

- *Limit the Florida Housing Finance Corporation's access to the state allocation pool for private activity bonds permitted to be issued in the state under the Internal Revenue Code to the amount of their initial allocation, and provide that after the initial allocation has been provided, the corporation may not receive more than 80 percent of the amount remaining in the state allocation pool on November 16th of each year. The distribution to the corporation of the unused portion of the state allocation pool is not affected.*

- *The bill provides specific assessment requirements for property receiving the low-income housing tax credit and property owned by a community land trust and used for the purpose of providing affordable housing. Additional criteria is provided to be used in determining if certain organizations are eligible for an ad valorem tax exemption when providing affordable housing.*
- *For provisions of the bill relating to ad valorem tax exemptions for exempt charitable organizations taking affirmative steps to provide affordable housing, the Revenue Estimating Conference has adopted an estimated a negative impact to local governments of \$200,000 each year over the next five years. For provisions of the bill relating to charitable non-profits, the conference adopted an estimated negative impact to local governments of \$400,000 each year over the next five years. No fiscal impacts were adopted on the remaining provisions of the bill.*
- *The bill substantially amends the following sections of the Florida Statutes: 159.807, 163.3202, 196.196, 196.1978, 212.055, 420.503, 420.5087, 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9079, and 1001.43. The bill creates ss. 193.018 and 420.628, F.S., and repeals s. 420.9078, F.S.*

Local Government Infrastructure Surtax

- *Expands the term “infrastructure” under s. 212.055 to include any land acquisition expenditure for a residential housing project where at least 30 percent of the units are affordable to individuals/families whose income does not exceed 120 percent of the area medium income.*

This bill was signed into law by Governor Charlie Crist on June 1, 2009.

Since then, a group of municipalities filed a lawsuit against the Governor and Legislature accusing the state of violating the Constitution by passing what they consider to be a “developer-friendly” bill. The local governments are: Key Biscayne, Cutler Bay, Miami Gardens, Weston, Lee County, Deerfield Beach, Fruitland Park, and Parkland.

The lawsuit does not address the issues of sprawl or the economy, but focuses on two provisions of the Constitution that check the Legislature’s lawmaking powers:

- The suit claims the bill broke the “single-subject rule”, whereby a piece of legislation cannot pass a single law referring to multiple unrelated subjects. This claim is based on language about security cameras at private businesses and affordable housing.
- Another provision in the suit claims the bill violates the “unfunded mandates” law by which the Legislature needs a 2/3 vote in each chamber if it passes laws that are imposed on local governments without any new source of money to pay for them. The Legislature did not pass this by 2/3, nor did it provide a funding source.

Attached, please find the Florida Department of Community Affairs’ “Notice to Local Governments of Transportation Planning Options Under Senate Bill 360 For Transportation Concurrency Exception Areas in Dense Urban Land Areas”.

SB 788 – Gaming Compact

The Board of County Commissioners recently discussed non-aeronautical revenue sources for Miami International Airport, in an effort to allow MIA to stay competitive in the future. The current annual cost of operating MIA, including servicing its debt, is approximately \$600 million, and a number that may climb to \$1.1 Billion by 2015, as per a memo issued by County Manager George Burgess.

One of the items discussed at this meeting was the possibility of putting slots machines beyond the security checkpoint at MIA.

SB 788 provides that Governor Charlie Crist and the Seminole Tribe of Florida have until August 31 to sign a new compact. The Legislature must then ratify the contract, likely in Special Session, and it is then forwarded to the US Department of the Interior.

Recent word from the Seminoles has centered on their unhappiness with the current legislation. Barry Richard, the attorney for the Tribe, has stated that if they cannot reach a deal with the state, they will go to the federal government to get the deal they want.

The bill, as approved by the legislature, is a 15 year, \$2.3 billion agreement. Of relevance to Miami-Dade County, Hialeah Park stands to benefit greatly, as it will be allowed to offer live horse racing again, something it has not been able to do since 2001. The Park will also be allowed to open a poker room. All of this, of course, is contingent on an agreement being reached between the Governor and the Tribe.

Other aspects of the bill, are as follows:

- Expands card games at some Seminole casinos.
- Ratification of blackjack, baccarat and other games at the tribe's two flagship Hard Rock casinos, in Hollywood and Tampa.
- The gambling age will increase from 18 to 21. Card room hours will be extended from 12 to 18 hours Monday through Friday and 24 hours on Saturday and Sunday.
- Seminole casinos in Hollywood and Coconut Creek would be eligible to expand its offering of card games.
- The tribe must maintain a central computerized reporting and auditing system and comply with the same state regulations that other pari-mutuels follow.
- Meals, clothes, etc., purchased by non-tribal members on Seminole resorts could be subject to sales taxes paid to the state.
- The tribe would donate up to \$1.75 million a year (\$250,000 per facility) to the state's compulsive-gambling hotline
- Palm Beach Kennel Club. Horse and dog tracks around the state would be able to offer no-limit poker. They will not get video lottery terminals, or VLTs, which are bingo-style slot machines, unless they get legislative approval and pass a voter referendum.
- Slot machine operators in Miami-Dade and Broward will have their tax rates decline from 50 percent to 35 percent with a guarantee that their tax revenue to the state will not drop below the estimated \$117 million that was collected in 2008-09.

As it relates to MIA, the final approval of SB 788 will close a window that currently exists that would make Miami-Dade eligible for applying for a slot-machine license through securing a permit to race quarter-horses off-site. In order to take advantage of this window, the County must apply for the permit by July.

OIA will be happy to provide further information as it becomes available.

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