

**CS/SB 440** by **CA, Bennett**; (Identical to H 1489) Initiatives and Referenda

**COMMITTEE MEETING EXPANDED AGENDA****BUDGET SUBCOMMITTEE ON TRANSPORTATION,  
TOURISM, AND ECONOMIC DEVELOPMENT  
APPROPRIATIONS****Senator Benacquisto, Chair  
Senator Margolis, Vice Chair****MEETING DATE:** Tuesday, January 24, 2012**TIME:** 2:15 —3:15 p.m.**PLACE:** *Toni Jennings Committee Room, 110 Senate Office Building***MEMBERS:** Senator Benacquisto, Chair; Senator Margolis, Vice Chair; Senators Alexander, Bennett, Bogdanoff, Bullard, Dean, Diaz de la Portilla, Evers, Fasano, Gaetz, Gibson, Latvala, Norman, Sachs, Smith, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 440</b> Community Affairs / Bennett (Identical H 1489, Compare CS/S 842)	Initiatives and Referenda; Authorizing a local government to retain certain initiatives or referendum processes which were in effect as of a specified date, etc.  CA 12/05/2011 Fav/CS BTA 01/24/2012 Favorable BC	Favorable Yeas 13 Nays 0
Review and Discussion of Fiscal Year 2012-2013 Budget Issues relating to:			Not Considered
Department of Economic Opportunity			
Florida Housing Finance Corporation			
Department of Highway Safety and Motor Vehicles			
Department of Military Affairs			
Department of State			
Department of Transportation			
Orlando Orange County Expressway Authority			
Tampa Hillsborough County Expressway Authority			
EOG/Division of Emergency Management			
Other Related Meeting Documents			

**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.)

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Prepared By: The Professional Staff of the Budget Subcommittee on Transportation, Tourism, and Economic  
Development Appropriations

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BILL: CS/SB 440

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Initiatives and Referenda

DATE: January 17, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Yeatman</u>	<u>CA</u>	<b>Fav/CS</b>
2.	<u>Martin</u>	<u>Meyer, R.</u>	<u>BTA</u>	<b>Favorable</b>
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This committee substitute (CS) authorizes a local government to retain certain initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment which was in effect as of June 1, 2011.

This CS substantially amends s. 163.3167 of the Florida Statutes.

**II. Present Situation:**

**Growth Management**

The Local Government Comprehensive Planning and Land Development Regulation Act (the Act),<sup>1</sup> also known as Florida's Growth Management Act, was adopted by the 1985 Legislature. The Act requires all of Florida's counties and municipalities to adopt local government comprehensive plans that guide future growth and development. Comprehensive plans contain

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<sup>1</sup> See Chapter 163, Part II, F.S.

chapters or “elements” that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools. The state land planning agency that administers these provisions is the Department of Economic Opportunity.

### **Amendments to the Comprehensive Plan**

A local government may choose to amend its comprehensive plan for a host of reasons. It may wish to expand, contract, accommodate proposed job creation projects or housing developments, or change the direction and character of growth. Some comprehensive plan amendments are initiated by landowners or developers, but all must be approved by the local government. The first step in the process is for the local government to develop a comprehensive plan amendment proposal. Public participation is a critical part of the comprehensive planning process.<sup>2</sup> Citizens often want to be a part of planning their communities and landowners need to be aware of changes that could affect their property. A local government considering a plan amendment must hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment. Notice must be published in a newspaper of general paid circulation in the jurisdiction of interest. The procedure for transmittal of a proposed or adopted comprehensive plan amendment requires the affirmative vote of a majority of the members of the governing body present at the hearing.

### **Referenda Approval of Amendments to Comprehensive Plans or Development Orders**

During the 2011 Florida legislative session, the Community Planning Act (HB 7207) was passed.<sup>3</sup> Within this new Florida growth management law was a provision altering the requirements for local governments to use the referendum process. Now, the statute states all initiatives or referendums on a development order or comprehensive plan amendment are prohibited. Previously, the prohibition only applied to those affecting five or fewer parcels.

Subsection 163.3167(8), F.S., prohibits a local government from adopting “an initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment.”

### **Town of Yankeetown vs. Department of Community Affairs, et al.**

The Town of Yankeetown, Florida, has sued the State of Florida regarding HB 7207 (Chapter 2011-139 Laws of Florida).<sup>4</sup> The suit maintains several alleged violations. The essential complaints are: (1) the law contained too many subjects and was not properly titled, (2) there are vague terms in the law, and (3) the provision against public referenda on comprehensive plan amendments violates Yankeetown’s Charter. Yankeetown seeks a declaratory judgment that it still be allowed to apply its referenda provisions, requiring voters to approve all comprehensive

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<sup>2</sup> Section 163.3181, F.S., setting out the minimum requirements for public participation in the comprehensive planning process.

<sup>3</sup> ch. 2011-139, L.O.F.

<sup>4</sup> *Yankeetown v. DCA* (37 2011 CA 002036).

land use changes affecting more than five parcels, because they existed before HB 7207 was passed.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 163.3167(8), F.S., to allow an initiative or referendum process in regard to any development order or in regard to any local comprehensive plan amendment or map amendment which was in effect as of June 1, 2011, to be retained and completed.

**Section 2** provides the CS shall take effect upon becoming law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

None.

### **VI. Technical Deficiencies:**

None.

### **VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by the Community Affairs Committee on December 5, 2011:**

- The CS clarifies the original proposed language allowing a local government charter provision for an initiative or referendum process regarding development orders or local comprehensive plan amendments or map amendments to be retained and implemented, if the provision was in effect as of June 1, 2011.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By the Committee on Community Affairs; and Senator Bennett

578-01521-12

2012440c1

1                   A bill to be entitled  
2       An act relating to initiatives and referenda; amending  
3       s. 163.3167, F.S.; authorizing a local government to  
4       retain certain initiatives or referendum processes  
5       which were in effect as of a specified date; providing  
6       an effective date.  
7  
8   Be It Enacted by the Legislature of the State of Florida:  
9  
10       Section 1. Subsection (8) of section 163.3167, Florida  
11   Statutes, is amended to read:  
12       163.3167 Scope of act.—  
13       (8) An initiative or referendum process in regard to any  
14   development order or in regard to any local comprehensive plan  
15   amendment or map amendment is prohibited. However, any local  
16   government charter provision that was in effect as of June 1,  
17   2011, for an initiative or referendum process in regard to  
18   development orders or in regard to local comprehensive plan  
19   amendments or map amendments, may be retained and implemented.  
20       Section 2. This act shall take effect upon becoming a law.

S0440

GENERAL BILL/CS by CA, Bennett; (Identical H 1489, Compare CS/S 0842, H 7081)

Initiatives and Referenda. EFFECTIVE DATE: upon becoming a law.

01/19/12 S On Committee agenda-- Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations, 01/24/12, 2:15 pm, 110 Senate Office Building

01/24/12 S Favorable by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; YEAS 13 NAYS 0 -SJ 279

01/25/12 S Now in Budget -SJ 279



# CourtSmart Tag Report

**Room:** EL 110

**Case:**

**Type:**

**Caption:** Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations **Judge:**

**Started:** 1/24/2012 2:20:00 PM

**Ends:** 1/24/2012 2:26:01 PM

**Length:** 00:06:02

<b>2:20:03 PM</b>	Meeting called to order and roll called.
<b>2:21:15 PM</b>	Chairman Benacquisto with opening remarks
<b>2:21:15 PM</b>	Senator Bullard for an Introductions and Welcome: Deltas
<b>2:22:02 PM</b>	Senator Gibson for an introduction and welcome: Deltas
<b>2:23:01 PM</b>	CS/SB 440 by Senator Bennett relating to Initiatives and Referenda
<b>2:25:33 PM</b>	Senator Sobel for an introduction..
<b>2:25:59 PM</b>	Senator Sobel moves we rise.

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-24-2012  
Meeting Date

Topic SB 440

Bill Number SB 440  
(if applicable)

Name Darrell D. McGhee

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Legislative Affairs Director

Address 107 East Madison Street  
Street  
Tallahassee FL 32399  
City State Zip

Phone (850) 245-7370

E-mail \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/20/11)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Budget, *Chair*  
Rules, *Vice Chair*  
Agriculture  
Banking and Insurance  
Budget - Subcommittee on Finance and Tax  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Education Pre-K - 12  
Rules - Subcommittee on Ethics and Elections

### JOINT COMMITTEE:

Legislative Budget Commission, *Chair*

### SENATOR JD ALEXANDER

17th District

January 23, 2012

Senator Lizbeth Benacquisto, Chair  
Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development  
Appropriations  
326 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Benacquisto,

I respectfully request permission to be absent from the Committee on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations, tomorrow, January 24, 2012. I will not be able to attend this meeting.

Thank you for your approval in this request.

Sincerely,

A handwritten signature in black ink, appearing to read "JD Alexander", written over a horizontal line.

JD Alexander  
Senator, District 17

A handwritten signature in black ink, appearing to read "JD Alexander", enclosed within a hand-drawn oval.

Xc: Reynold Meyer

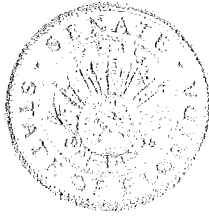
### REPLY TO:

- ☐ 201 Central Avenue West, Suite 115, City Hall Complex, Lake Wales, Florida 33853 (863) 679-4847
- ☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5044

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Budget - Subcommittee on Finance and Tax,  
*Chair*  
Budget  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Communications, Energy, and Public Utilities  
Education Pre-K - 12  
Governmental Oversight and Accountability  
Regulated Industries

## JOINT COMMITTEE:

Administrative Procedures, *Alternating Chair*

**SENATOR ELLYN SETNOR BOGDANOFF**

25th District

January 24, 2012

Senator Lizbeth Benacquisto, Chair  
The Committee on Transportation, Tourism and Economic Development  
201 The Capitol  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

**RE: Tuesday, January 24, 2012 meeting of the Committee on Transportation, Tourism and Economic Development**

Dear Chair Benacquisto:

Please excuse my absence from the January 24, 2012 meeting of the Committee on Transportation, Tourism and Economic Development.

Please do not hesitate to call me with any questions.

Sincerely,

Ellyn Setnor Bogdanoff  
State Senator – District 25  
bogdanoff.ellyn.web@flsenate.gov

- cc: Reynold Meyer, Staff Director

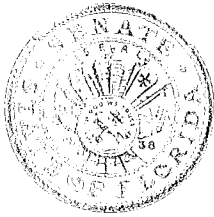
## REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**MIKE HARIDOPOLOS**  
President of the Senate

**MICHAEL S. "MIKE" BENNETT**  
President Pro Tempore



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Environmental Preservation and Conservation,  
*Chair*  
Criminal Justice, *Vice Chair*  
Budget - Subcommittee on Transportation, Tourism,  
and Economic Development Appropriations  
Governmental Oversight and Accountability  
Reapportionment  
Regulated Industries

**SENATOR CHARLES S. DEAN, SR.**

3rd District

January 24, 2012

The Honorable Lizbeth Benacquisto  
326 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Benacquisto:

The purpose of this letter is to seek your permission to be excused from the scheduled Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations meeting scheduled for January 24, 2012 at 2:15 P.M.

Should you have any questions concerning this matter, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean  
State Senator District 3

cc: Reynold Meyer, Staff Director

### REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- ☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

MIKE HARIDOPOLOS  
President of the Senate

MICHAEL S. "MIKE" BENNETT  
President Pro Tempore