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DATE: May 29, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-344, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 1859

RELATING TO: Collier County/Governmental Powers

SPONSOR(S): Representative Goodlette

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill amends existing special acts authorizing Collier County and the municipalities therein to establish and maintain the position of hearing examiners.

The bill amends certain definitions.

The bill changes the process whereby certain zoning decisions may be appealed.

The bill provides the method and procedures for implementing a county hearing examiner program to be provided by county ordinance.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

This bill authorizes a county hearing examiner program.

B. PRESENT SITUATION:

Chapter 67-1246, Laws of Florida, enables municipalities lying within Collier County, Florida, to plan, zone and to regulate subdivisions, in order to preserve and enhance their advantages, overcome their handicaps, and prevent or minimize future problems. This act is designed to promote, protect and improve the public health, safety, order, comfort, convenience, appearance and general welfare.

Chapter 67-1246, Laws of Florida, as amended by chapter 69-964, Laws of Florida, added the following: the purpose of guiding and accomplishing coordinated, adjusted and harmonious development in accordance with existing and future needs, and in accordance with the conditions and procedures specified in this act, may enact or amend a zoning ordinance or ordinances. Such ordinance or ordinances may provide for the governing body to create zoning districts in such number, shape and size as may be deemed best suited to carry out the purposes of the act.

Ordinances need not be uniform in all geographic areas of the county served by different planning commissions but the provisions of zoning ordinances may vary from geographic area to geographic area. Regulations and district boundaries were designed to help accomplish the objectives and purposes set forth in the act, and the comprehensive plan. The regulations applied uniformly to each class or kind of use throughout the zoning districts in which that use is permitted, under the particular ordinance involved.

C. EFFECT OF PROPOSED CHANGES:

The bill amends existing special acts authorizing Collier County and the municipalities therein to establish and maintain the position of hearing examiners.

The bill amends the definition of "due public notice".

The bill removes as one of the planning commissions' duties due consideration as to whether specific proposed developments conform to the principles and requirements of the comprehensive plan, on which to base a recommendation.

The bill provides that a hearing examiner may suggest proposed changes relating to supplementing and amending the zoning ordinance. The county planning commission may only render

recommendations for those proposed changes which pertain to the county and which would change the actual list of permitted, conditional, or prohibited uses within a zoning category, or otherwise alter or amend provisions of the county's codified land development regulations. The governing body must hold a public hearing.

The bill amends certain powers and duties of the board of zoning appeals to allow for administrative appeals. The bill changes the process whereby certain zoning decisions may be appealed.

The bill provides the method and procedures for implementing a county hearing examiner program to be provided by county ordinance.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Sections 1, 3, 6, 11, 14, 15, and 16 of chapter 67-1246, Laws of Florida, relating to Collier County, are amended, and section 31 is added to the following:

Section 1. Amends section 1 of chapter 67-1246, L.O.F., to authorize county hearing examiners.

Section 3. Amends section 3 of chapter 67-1246, L.O.F., to provide definitions.

Section 6. Amends section 6 of chapter 67-1246, L.O.F., to provide the functions, powers, and duties of the planning commission.

Section 11. Amends section 11 of chapter 67-1246, L.O.F., relating to supplementing and amending zoning ordinances.

Section 14. Amends section 14 of chapter 67-1246, L.O.F., to provide the powers and duties of the board of zoning appeals; and the powers and duties of the board of zoning appeals or the governing body acting as a board of zoning appeals in the event it so elects.

Section 15. Amends section 15 of chapter 67-1246, L.O.F., to provide the exercise of powers.

Section 16. Amends section 16 of chapter 67-1246, L.O.F., relating to appeals from a decision of an administrative official.

Section 31. Creates section 31 of chapter 67-1246, L.O.F., to provide the method and procedures for implementing a county hearing examiner program be provided by county ordinance.

Section 2. Provides for the severability of any unconstitutional, invalid, or inoperative provisions.

Section 3. Provides effective date of upon becoming law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? March 4, 2001

WHERE? Naples Daily News in Naples, Collier County, Florida

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the 2001 Economic Impact Statement Collier County is authorized to create a hearing examiner process to decide minor land use type cases, alleviating the need for Board of County Commissioners consideration; the process will provide written recommendations to the Board for major land use cases thereby focusing on any disputed issues. The 2001 Economic Impact Statement estimates costs of administration, implementation, and enforcement for expenditures is \$254,000 for fiscal year (FY) 2001-2002 and \$212,000 for FY 2002-2003. This estimate is based on information provided by the County Planning Services staff and is based on estimated costs for salaries, benefits, annual operating costs and initial start-up capital costs, all of which will be borne by Collier County from appropriate revenue sources.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Terri S. Boggis

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

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Terri S. Boggis

Joan Highsmith-Smith