

STORAGE NAME: h0869.sgc.doc
DATE: April 19, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR SMARTER GOVERNMENT
ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 869
RELATING TO: Broward County/Concurrency Requirements
SPONSOR(S): Representative Ritter
TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS YEAS 6 NAYS 0
 - (2) TRANSPORTATION YEAS 14 NAYS 0
 - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 12 NAYS 0
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes local governments within Broward County to grant an additional exception from transportation facilities concurrency, under specified conditions.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

On March 20, 2001, the Committee on Local Government & Veterans Affairs considered HB 869, adopted one amendment, and passed the bill. The amendment, which is traveling with the bill, is explained in the "Amendments or Committee Substitute Changes" section of the analysis.

On April 4, 2001, the Transportation Committee considered HB 869, adopted two amendments, and then passed the bill. The amendments, which are traveling with the bill, are explained in the "Amendments or Committee Substitute Changes" section of the analysis.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input 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:

B. PRESENT SITUATION:

Concurrency

The concurrency requirement of the Local Government Comprehensive Planning and Land Development Regulation Act (part II, Chapter 163, Florida Statutes) is a growth-management tool designed to accommodate development by ensuring that adequate facilities are available as growth occurs. The "cornerstone" of the concurrency requirement is the concept that development should be coordinated with capital improvements planning to ensure that the necessary public facilities are available for, or within a reasonable time of, the impacts of new development. Under the requirements for local comprehensive plans, each local government must adopt levels of service (LOS) standards for certain types of public services and facilities. See section 163.3180, Florida Statutes. Generally, these LOS standards apply to sanitary sewer, solid waste, drainage, potable water, parks and recreation, roads and mass transit. Pursuant to section 163.3180(2)(c), Florida Statutes, the local government must ensure that transportation facilities needed to serve new development are in place or under actual construction within three years after issuance of the certificate of occupancy. The intent is to keep new development from significantly reducing the adopted LOS by increasing the capacity of the infrastructure to meet the demands of new development.

In 1995, the Legislature adopted section 163.3180(5)(b), Florida Statutes, which provides exemptions to transportation concurrency requirements for local governments if such requirements discourage urban infill development, redevelopment, or downtown revitalization. In order to promote infill development and redevelopment, one or more transportation concurrency management areas may be designated in a local government comprehensive plan.

Currently, nearly half of Broward County is designated as a transportation concurrency exception area. Most of the land designated is east of the Florida Turnpike.

Regional Activity Center/South Florida Education Center

The current definition of a regional activity center, a land-use designation, may be found in Rule 28-24.014(10)(c)(2), Florida Administrative Code. This rule provides that a regional activity center is a compact, high-intensity, high-density, multi-use area designated as appropriate for intensive growth by the local government.

There are regional activity centers throughout the state. Broward County has in its Local Comprehensive Plan six such centers. One such center is in the Town of Davie. This center contains approximately 2,244 acres centered on the South Florida Education Center complex. The South Florida Education Center is a complex of schools and universities that occupy approximately 27 percent of all the land within the regional activity center. The schools that currently occupy or have a facility at the complex are: Nova Southeastern; Florida Atlantic University; Broward Community College; University of Florida; Florida International University; Florida Division of Forestry; Criminal Justice Institute; Instructional Television Center; Broward Fire Academy; McFarther vocational center; Broward County Cooperative Extension Service; and the Nova Schools Complex which consists of one high school, one middle school, and two elementary schools. With the exception of this regional activity center, Broward County's other regional activity centers qualify for a transportation facilities concurrency exception under current statute by virtue of fulfilling other requirements as an urban infill area, etc.

C. EFFECT OF PROPOSED CHANGES:

This bill authorizes local governments, within Broward County, to grant an exception from transportation facilities concurrency under specified conditions. A local government may grant an exception to a proposed development if the proposed development is consistent with the adopted local comprehensive plan and the development either: (1) promotes public transportation or (2) is located within a regional activity center, defined in the Broward County Comprehensive Plan, and is within an area that contains major public and private postsecondary higher education institutions.

The intent of this bill is to allow the Town of Davie in Broward County the opportunity to grant an exception from the transportation facilities concurrency requirements for the 2,244-acre regional activity center located within its boundaries (the South Florida Education Center complex). If the Town of Davie grants the exception and maximum buildout occurs, it is estimated that approximately \$800 million in direct and indirect benefits and \$42 million in ad valorem taxes will be generated.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section authorizes local governments, within Broward County, to grant an exception from transportation facilities concurrency, under specified conditions. A local government may grant an exception to a proposed development if the proposed development is consistent with the adopted local comprehensive plan and the development either: (1) promotes public transportation or (2) is located within a regional activity center, defined in the Broward County Comprehensive Plan, and is within an area that contains major public and private postsecondary higher education institutions.

Section 2: This act is effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes ☒ No ☐

IF YES, WHEN?

January 28, 2001

WHERE?

Sun-Sentinel; Fort Lauderdale, Broward County

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:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Committee on Local Government & Veterans Affairs:

During the 2000 Legislative Session, HB 2335 included a provision that amended section 163.3180, Florida Statutes, to authorize local governments to exempt regional activity centers from transportation concurrency requirements. HB 2335 failed to pass the Legislature.

It is unclear whether this bill exempts the local government choosing the option provided in the bill, from the remaining requirements in section 163.3180(5), F. S. This subsection requires the establishment of guidelines for granting the exception and the consideration of the impacts on the Florida Intrastate Highway System. In addition, local governments are required to designate an exception area in their comprehensive plan.

The Department of Community Affairs has raised some of the following issues:

- Areas currently not in a transportation concurrency exception area implement concurrency mitigation in order to correct the LOS deficiencies before developing.
- The bill conflicts with the intent of the transportation concurrency exception, which allows exceptions in urban infill areas where concurrency requirements cannot be resolved.
- The proposed exception does not address impacts to the Florida Intrastate Highway System, I-595, and the Florida Turnpike.
- This exception would be more appropriate as a statewide exception rather than limiting it to one location.
- There are other alternatives that could be considered.

The Committee on Transportation:

The Department of Transportation has reviewed HB 869 and is taking no position.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its March 20, 2001 meeting, adopted a clarifying amendment by Representative Henriquez, that requires the exception be granted pursuant to section 163.3180(5)(d), Florida Statutes.

Two amendments were adopted by the Committee on Transportation at its April 4, 2001, meeting. The first amendment further clarifies the Henriquez amendment, requiring the Town of Davie to consider the proposed project's impact on the Florida Intrastate Highway System. That was the purpose of referencing s. 163.3180(5)(d), F.S.; however, that paragraph was significantly amended in the draft PCB LGVA 01-02. The Transportation Committee amendment simply restates the current statutory requirements for a transportation concurrency exemption to consider impacts to the state highway system.

The second amendment adopted in the Transportation Commission requires that the project seeking a transportation concurrency exemption must meet both of the following requirements: that it promotes public transportation and is located with a "Regional Activity Center" as described in the Broward County Comprehensive Plan. In HB 869 as written, the project had to meet only one of the above requirements. One of the bill's supporters said the use of the word "or" rather than "and" was a scrivener's error.

The Transportation Committee adopted both amendments without objection, and they will travel with the bill. The bill passed by the committee by a vote of 14-0.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Laura Jacobs, J.D.

Staff Director:

Joan Highsmith-Smith

COMMITTEE ON TRANSPORTATION:

Prepared by:

Joyce Pugh

Staff Director:

Phillip B. Miller

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Laura Jacobs, J.D.

Staff Director:

Don Rubottom