

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS /SB 268

SPONSOR: Comprehensive Planning Committee and Senator Geller

SUBJECT: Planning for School Growth

DATE: February 16, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>ED</u>	_____
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This Committee Substitute (CS) allows a school board, as an alternative to sending a representative to the meetings of a local planning agency or equivalent agency, to provide written comments, on a case-by-case basis if mutually agreed upon in an interlocal agreement adopted under ss. 163.31777 and 1013.33, F.S., regarding a proposed comprehensive plan amendment or rezoning that would increase residential density on the subject property.

This CS amends section 163.3174 of the Florida Statutes.

II. Present Situation:

The Local Government Comprehensive Planning and Land Development Regulation Act, contained in ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Section 163.3177, F.S., requires each comprehensive plan to include certain “elements” that address different aspects of growth management, including the following: a capital improvements; future land use plan; traffic circulation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; and intergovernmental coordination elements.

Section 163.3174(1), F.S., directs the governing body of each local government, either individually or in combination with another local government, to designate and by ordinance establish a local planning agency. This agency may be a local planning commission, planning department, or other instrumentality, including a countywide planning entity established by

special act or a council of local government officials created under s. 163.02, F.S. Also, the local government may designate itself as the land planning agency and must notify the Department of Community Affairs of the establishment of its local planning agency. For charter counties, the planning responsibility between the county and the several municipalities shall be as specified in the charter.

In addition to preparation of the plan or amendment and recommendations to the governing body, the responsibilities of the local planning agency include monitoring and oversight of the effectiveness and status of the comprehensive plan and recommendations for any changes to the plan that may be necessary from time to time, including the preparation of evaluation and appraisal reports. The land planning agency must also review land development regulations and codes, or amendments thereto, and provide recommendations to the governing body on the consistency of those proposals with the comprehensive plan if the agency is serving as the land development regulation commission or the local government requires approval from both the agency and the commission. The agency may perform other duties and responsibilities as directed by the governing body or required by general or special law.

Further, this section requires, notwithstanding any special law to the contrary, that each local planning agency that first reviews requests for rezoning and comprehensive plan amendments for a local government must include a representative of the school district, appointed by the school board as a nonvoting member of the local planning agency or its equivalent, to attend those meetings at which proposed rezonings or plan amendments would, if approved, increase the residential density for the property at issue. This provision does not prevent the local government from granting voting status to the school board member. After holding at least one public hearing with public notice, the local planning agency shall prepare the comprehensive plan or plan amendment and make recommendations to the governing body regarding the adoption of the plan or amendments to it.

District School Boards

Section 1001.30, F.S., provides that each county shall constitute a school district and is the unit for the control, organization and administration of schools. The district school system includes all public schools, classes, and all services and activities directly related to education in that district. Each district school board is comprised of not less than 5 members. A district school board may also have 7 members with the district divided into 5 district school board member residence areas and 2 members elected at large. Alternatively, the district may be divided into 7 district school board member residence areas. Each school board member must be a qualified elector of the district in which he or she serves and a resident of the district school board member residence area from which he or she is elected. The term of a school board member is 4 years and each member serves as the representative of the entire district.¹ A district school board must hold at least one regular meeting per month and meet as required for special sessions when called by the district school superintendent.

School Districts and Interlocal Agreements

Section 1013.33, F.S., requires a school board, county, and nonexempt municipalities located within a school district to enter into an interlocal agreement that jointly establishes specific ways

¹ Ss. 1001.35 and 1001.363, F.S.

that the plans and processes of the school board and local governments are to be coordinated. At a minimum, the interlocal agreement must address:

- A process by which each local government and the school board agree and base their plans on consistent projections of the amount, type, and distribution of population growth and student enrollment.
- A process to share information relating to existing and planned public school facilities.
- Participation by affected local governments with the district school board in the evaluation of potential school closures, significant renovations to existing schools, and new school site selection before acquisition of the property.
- A process for determining the need for and timing of on-site and off-site improvements to support new construction, or the expansion or redevelopment of existing schools.
- A process for the school board to inform the local government regarding school capacity. This capacity reporting must be consistent with laws and rules regarding the measurement of school capacity and identify how the school board will meet the public school demand based on the facilities work program. The interlocal government may exclude this provision, but only after a public hearing on the issue.
- Participation of the local governments in the preparation of the annual update to the school board's 5-year district work facilities program and educational plant survey.
- A process for determining if the joint use of school board or local government facilities would be mutually beneficial and more efficient.
- A procedure for dispute resolution between the district school board and the local governments.
- An oversight process, with an opportunity for public participation, for implementation of the agreement.²

This interlocal agreement must be consistent with a signatory local government's adopted comprehensive plan and land development regulations.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3174(1), F.S., to allow a school board, as an alternative to sending a representative to the meetings of a local planning agency or equivalent agency, to provide written comments regarding a proposed comprehensive plan amendment or rezoning that would increase residential density on the subject property. Such written comments, in place of attending a meeting, would be allowed on a case-by-case basis if mutually agreed upon by the local government and school board in an interlocal agreement adopted under ss. 163.31777 and 1013.33, F.S.

Section 2 provides the act shall take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

² S. 1013.33(3), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.