HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 883 Local Government
SPONSOR(S): Government Accountability Committee; Local, Federal & Veterans Affairs Subcommittee; Ingoglia
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1348

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	8 Y, 0 N, As CS	Darden	Miller
2) Government Accountability Committee	17 Y, 7 N, As CS	Darden	Williamson

SUMMARY ANALYSIS

Various statutes provide mechanisms to encourage both new development and revitalization of existing development. Entities created for this purpose include community redevelopment agencies (CRAs), intended as a means for redeveloping slums and blighted areas, and community development districts (CDDs), a type of special-purpose local government intended to provide basic urban community services in a cost-effective manner. The Developments of Regional Impact (DRI) process was intended to manage "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county." Due to their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan.

The bill:

- Provides that a rural boundary or urban development boundary created by initiative or referendum must be ratified every 10 years at a general election and provides for the ratification of existing boundaries;
- Increases accountability and transparency for CRAs by requiring annual ethics training, establishing reporting requirements, providing moneys in the redevelopment trust fund may only be expended pursuant to an annual budget for purposes provided in current law, and requires counties and municipalities to include CRA data in their annual financial report;
- Provides for creation of new CRAs on or after October 1, 2018, only by special act of the Legislature and a phase-out for existing CRAs not reauthorized by the creating local government;
- Provides a process declaring a CRA inactive if it has reported no revenues, no expenditures, and no debt for three consecutive fiscal years;
- Enables CDDs created by a county government to include a list of parcels in the creation petition that the district expects to annex within the next 10 years;
- Eliminates state and regional review for existing DRIs, eliminates the Florida Quality Development (FQD) program, and transfers the responsibility for implementation of, and amendments to, DRI and FQD development orders to the local governments in which the developments are located;
- Transfers the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review;
- Deletes the criteria for determining when two or more developments must be "aggregated" and treated as a single development for the purposes of DRI review and deletes the substantial deviation criteria for development order changes;
- Eliminates all DRI appeals to the Florida Land and Water Adjudicatory Commission except for decisions by local governments to abandon an approved DRI; and
- Repeals the Department of Economic Opportunity's DRI and FQD rules and Administration Commission rules related to DRI aggregation.

The bill may have a fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

COMMUNITY REDEVELOPMENT AGENCIES

Present Situation

Community Redevelopment Act

The Community Redevelopment Act of 1969 (Act)[1] authorizes a county or municipality to create a community redevelopment agency (CRA) as a means of redeveloping slums and blighted areas. The Act defines a "blighted area" as an area in which there are a substantial number of deteriorated structures causing economic distress or endangerment to life or property and two or more of the following factors are present:

- Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- Unsanitary or unsafe conditions;
- Deterioration of site or other improvements;
- Inadequate and outdated building density patterns;
- Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- Tax or special assessment delinquency exceeding the fair value of the land;
- Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- Incidence of crime in the area higher than in the remainder of the county or municipality;
- Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area;
- Governmentally owned property with adverse environmental conditions caused by a public or private entity; or
- A substantial number or percentage of properties damaged by sinkhole activity that have not been adequately repaired or stabilized.[2]

An area also may be classified as blighted if one of the above factors is present and all taxing authorities with jurisdiction over the area have agreed that the area is blighted by interlocal agreement or by passage of a resolution by the governing bodies.[3]

The Act defines a "slum area" as "an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements" in poor states of repair with one of the following factors present:

- Inadequate provision for ventilation, light, air, sanitation, or open spaces;

[1] Chapter 163, part III, F.S.
[2] Section 163.340(8), F.S.
[3] *Id*.

- High density of population, compared to the population density of adjacent areas within the county or municipality, and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- The existence of conditions that endanger life or property by fire or other causes.[4]

Creation of Community Redevelopment Agencies

Either a county or municipal government may create a CRA. Before creating a CRA, a county or municipal government must adopt a resolution with a "finding of necessity."[5] This resolution must make legislative findings "supported by data and analysis" that the area to be included in the CRA's jurisdiction is either blighted or a slum and that redevelopment of the area is necessary to promote "the public health, safety, morals, or welfare" of residents.[6]

A county or municipality may create a CRA upon the adoption of a finding of necessity and a finding that a CRA is necessary for carrying out the community redevelopment goals embodied by the Act.[7] A CRA created by a county may only operate within the boundaries of a municipality when the municipality has concurred by resolution with the community redevelopment plan adopted by the county. A CRA created by a municipality may not include more than 80 percent of the municipality if it was created after July 1, 2006.[8]

The ability to create, expand, or modify a CRA is also determined by the county's status as a charter or non-charter county, as summarized below:

County Status	Authority
Charter County - CRA created after adoption of charter[9]	County possesses authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.
Charter County - CRA created before adoption of charter[10]	County does not have authority over CRA operations, including modification of redevelopment plan or expansion of CRA boundaries.
Non-Charter County[11]	County does not have authority over CRA operations, including modification of redevelopment plan or expansion of CRA boundaries.

As of February 1, 2018, there were 224 CRAs in Florida, which is a 30 percent increase over the past decade.[12]

Community Redevelopment Agency Boards

The Act allows the local governing body creating a CRA to choose between two structures when establishing the agency's governing board.

One option is to appoint a board of commissioners consisting of five to nine members serving four-year terms.[13] The local governing body may appoint any person as a commissioner who lives in or is

[4] Section 163.340(7), F.S.
[5] *See* s. 163.355, F.S. (prohibiting counties and municipalities from exercising powers under the Act without a finding of necessity).
[6] *Id.*
[7] Section 163.356(1), F.S.
[8] Section 163.340(10), F.S.
[9] Section 163.410, F.S.
[10] *Id*.
[11] Section 163.415, F.S.
[12] *Compare* Dept. of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online,* http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx (last visited Feb. 19, 2018) (224 active CRAs as of Feb. 1, 2018) *with* Bill Analysis for HB 1583 (2006) (stating there were 171 CRAs in operation as of Mar. 26, 2006).
[13] Section 163.356(2), F.S.

engaged in business in the agency's area of operation.[14] The local governing body making the appointment selects the chair and vice chair of the commission.[15] Commissioners are not entitled to compensation for their services, but may receive reimbursement for expenses incurred in the discharge of their official duties.[16] Commissioners and employees of an agency are subject to the code of ethics for public officers and employees under ch. 112, F.S.[17]

The other option is for the local governing body to appoint itself as the agency board of commissioners.[18] If the local governing body consists of five members, the local governing body may appoint two additional members to four-year terms.[19] The additional members either must meet the selection criteria for appointed board members under s. 163.356, F.S., or may be representatives of another taxing authority within the agency's area of operation, subject to an interlocal agreement between the local governing body creating the CRA and the other taxing authority.[20]

As of February 1, 2018, the local governing body creating the CRA serves as the CRA board for 156 of the 224 active CRAs.[21]

Community Redevelopment Agency Operations

The CRA board of commissioners is responsible for exercising the powers of the agency.[22] A majority of the board's members are required for a quorum. A CRA may employ an executive director, technical experts, legal counsel, and other agents and employees necessary to fulfill its duties.[23]

A CRA exercising its powers under the Act must file an annual report with the governing body of the creating local government entity.[24] The report must contain a complete financial statement of the assets, liabilities, income, and operating expenses of the agency. The CRA must publish a notice in a newspaper of general circulation in the community that the report has been filed and is available for inspection during business hours in the office of the clerk of the city or county commission and the office of the agency.

As a type of dependent special district,[25] a CRA also must maintain certain information on an official website.[26] The website may be part of the creating governmental entity's website.[27] The information required to be posted includes the public purpose of the CRA,[28] the description of the CRA's

[14] Section 163.356(3)(b), F.S. A person is "engaged in business" if he or she owns a business, performs services for compensation, or serves as an officer or director of a business that owns property or performs services in the agency's area of operation.
[15] Section 163.356(3)(c), F.S.
[16] Section 163.356(3)(a), F.S.
[17] Section 163.367(1), F.S, *but cf.* s. 112.3142, F.S. (requiring ethics training for specific constitutional officers and elected municipal officers).
[18] Section 163.357(1)(a), F.S.
[19] Section 163.357(1)(c), F.S.
[20] Section 163.357(1)(c)-(d), F.S.
[21] Dept. of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx (last visited Feb. 19, 2018).
[22] Section 163.356(3)(b), F.S.
[23] Section 163.356(3)(c), F.S.
[24] *Id*.
[25] *See* s. 189.012(2), F.S. (defining "dependent special district" as any special district that meets at least one of the following criteria: the membership of its governing body is identical to that of the governing body of a single county or a single municipality; all members of its governing body are appointed by the governing body of a single county or a single municipality; members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality during their unexpired terms; or the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.)
[26] Section 189.069(1), F.S.
[27] Section 189.069(1)(b), F.S.
[28] Section 189.069(2)(a)2., F.S.

boundaries and the services it provides,[29] a listing of all amounts collected for the fiscal year by the CRA and the sources of those revenues,[30] the CRA's budget and any amendments,[31] and the final, complete audit report for the CRA's most recently completed fiscal year as well as all required by law.[32]

Community Redevelopment Plans

A community redevelopment plan must be in place before a CRA can engage in operations.[33] The county, the municipality, the CRA itself, or members of the public may submit the plan and then the CRA chooses which plan it will use as its community redevelopment plan.[34] Next, the CRA must submit the plan to the local planning agency for review before the plan can be considered.[35] The local planning agency must complete its review within 60 days.

The CRA must submit the community redevelopment plan to the governing body that created the CRA as well as each taxing authority that levies ad valorem taxes on taxable real property contained in the boundaries of the CRA.[36] The local governing body that created the CRA must hold a public hearing before the plan is approved.[37]

To approve the plan, the local governing body must find that:

- A feasible method exists to relocate families who will be displaced by redevelopment in safe and sanitary accommodations within their means and without undue hardship;
- The community redevelopment plan conforms to the general plan of the county or municipality as a whole;
- The community redevelopment plan gives due consideration to the utilization of community policing innovations and other factors encouraging neighborhood improvement, with special consideration for impacts on children;
- The community redevelopment plan encourages redevelopment by private enterprise to the maximum possible extent; and
- The community redevelopment plan will reduce or maintain evacuation time and ensure protection for property against exposure to natural disasters if the CRA is in a coastal tourist area.[38]

The community redevelopment plan must also:

- Conform to the comprehensive plan for the county or municipality;
- Indicate land acquisition, demolition, and removal of structures; redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area; zoning and planning changes, if any; land uses; maximum densities; and building requirements; and
- Provide for the development of affordable housing in the area, or state the reasons for not addressing in the plan the development of affordable housing.[39]

[29] Section 189.069(2)(a)7., F.S.
[30] Section 189.069(2)(a)8., F.S.
[31] Section 189.(2)(a)11., F.S.
[32] Section 189.069(2)(a)12., F.S. *See* the section of the analysis on "Annual Financial Reports for Local Government Entities."
[33] Section 163.360(1), F.S.
[34] Section 163.360(4), F.S.
[35] *Id*.
[36] Section 163.360(5), F.S.
[37] Section 163.360(6), F.S.
[38] Section 163.360(7), F.S.
[39] Section 163.360(2), F.S.

Redevelopment Trust Fund

CRAs may not levy or collect taxes; however, the local governing body may establish a community redevelopment trust fund that is funded through tax increment financing (TIF). The amount of TIF available to the agency in a given year is equal to 95 percent of the difference between:

- The amount of ad valorem taxes levied in the current year by each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area; and
- The amount of ad valorem taxes that would have been produced by levying the current year's millage rate for each taxing authority, excluding any debt service millage, on taxable real property within the boundaries of the community redevelopment area at the total assessed value of the taxable real property prior to the effective date of the ordinance providing for the redevelopment trust fund.[40]

A CRA created by Miami-Dade County on or after July 1, 1994, may set the amount of funding provided at less than 95 percent, with a floor of 50 percent.[41]

The TIF authority of a CRA may be limited where the CRA:

- Did not authorize a study to consider whether a finding of necessity resolution should be adopted by June 5, 2006, did not adopt a finding of necessity study by March 31, 2007, did not adopt a community redevelopment plan by June 7, 2007, and was not authorized to exercise community redevelopment powers pursuant to a delegation of authority under s. 163.410, F.S., by a charter county; [42] or
- Adopted a modified community redevelopment plan after October 1, 2006, which expands the boundaries of the community redevelopment area, if the CRA is in a charter county and was not created pursuant to a delegation of authority under s.163.410, F.S.[43]

If either of these conditions occurs, a CRA may have TIF proceeds from other taxing entities capped at the millage rate imposed by the municipality that created the CRA.[44] If either of these conditions occurs and the CRA is more than 25 years old, the CRA's TIF contributions from other taxing authorities may be capped by resolution of the other taxing authority at the sum of the amount of TIF available in the year before the resolution was approved and any increased increment subject to an area reinvestment agreement.[45]

Each taxing authority must transfer TIF funds to the redevelopment trust fund of the CRA by January 1 of each year. For CRAs created before July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for a period of no more than 60 years from when the community redevelopment plan was adopted or no more than 30 years from when the plan was amended, whichever is lesser. For CRAs created on or after July 1, 2002, each taxing authority must make an annual appropriation to the trust fund for no more than 40 years from when the community redevelopment plan was adopted.[46] If there are any outstanding loans, advances, or indebtedness at the conclusion of these periods, the local governing body that created the CRA must continue transfers to the redevelopment trust fund until the debt has been retired.[47]

[40] Section 163.387(1)(a), F.S.
[41] *Id.*
[42] Section 163.387(1)(b)1., F.S.
[43] Section 163.387(1)(b)2., F.S.
[44] Section 163.387(1)(b)1.a., F.S.
[45] Section 163.387(1)(b)1.b., F.S. An "area reinvestment agreement" is an agreement between the CRA and a private party that requires the increment computed for a specific area to be reinvested in services or public or private projects, or both, including debt service, supporting one or more projects consistent with the community redevelopment plan, which is identified in the agreement to be constructed within that area.
[46] Section 163.387(2)(a), F.S.
[47] Section 163.387(3)(a), F.S.

If a taxing authority does not transfer the TIF funds to the redevelopment trust fund, the taxing authority is required to pay a penalty of 5 percent of the TIF amount to the trust fund as well as 1 percent interest per month for the outstanding amount.[48] A CRA may choose to waive these penalties in whole or in part.

The following taxing authorities are exempt from contributing to the redevelopment trust fund:

- A school district;[49]
- A special district that levies ad valorem taxes on taxable real property in more than one county;
- A special district for which ad valorem taxation is the sole source of revenue;
- A library district, unless the library district is in a jurisdiction where the CRA had validated bonds as of April 30, 1984;
- A neighborhood improvement district;
- A metropolitan transportation authority;
- A water management district created under s. 373.069, F.S.; and
- A hospital district that is a special district if the CRA was created on or after July 1, 2016.[50]

Additionally, the local governing body creating the CRA may choose to exempt other special districts levying ad valorem taxes in the community redevelopment area.[51] The decision to grant the exemption must be based on statutory criteria, must be adopted at a public hearing, and the conditions of the exemption must be included in an interlocal agreement between the county or municipality and the special district.

Any revenue bonds issued by the CRA are payable from revenues pledged to and received by the CRA and deposited into the redevelopment trust fund.[52] The lien created by the revenue bonds does not attach to the bonds until the revenues are deposited in the redevelopment trust fund and do not grant bondholders any right to require taxation in order to retire the bond. Revenue bonds issued by a CRA are not a liability of the state or any political subdivision of the state and this status must be made clear on the face of the bond.[53]

A CRA may spend funds deposited in its redevelopment trust fund for "purposes, including, but not limited to":

- Administrative and overhead expenses necessary or incidental to the implementation of a community redevelopment plan adopted by the agency;
- Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the CRA for such expenses incurred before the redevelopment plan was approved and adopted;
- Acquisition of real property in the redevelopment area;
- Clearance and preparation of any redevelopment area for redevelopment and relocation of site occupants within or outside the community redevelopment area as provided in s. 163.370, F.S.;
- Repayment of principal and interest or any redemption premium for loans, advances, bonds, bond anticipation notes, and any other form of indebtedness;
- All expenses incidental to or connected with the issuance, sale, redemption, retirement, or purchase of bonds, bond anticipation notes, or other form of indebtedness, including funding of any reserve, redemption, or other fund or account provided for in the ordinance or resolution authorizing such bonds, notes, or other form of indebtedness;
- Development of affordable housing within the community redevelopment area; and

[48] Section 163.387(2)(b), F.S.
[49] *See* s. 163.340, F.S. (defining a "taxing authority" as "a public body that levies or is authorized to levy an ad valorem tax on real property located in a community redevelopment area" and defining a "public body" as excluding school districts.)
[50] Section 163.387(2)(c), F.S.
[51] Section 163.387(2)(d), F.S.
[52] Section 163.387(4), F.S.
[53] Section 163.387(5), F.S.

- Development of community policing innovations.[54]

If any funds remain in the redevelopment trust fund on the last day of the fiscal year, the funds must be:
- Returned to each taxing authority on a pro rata basis;
- Used to reduce the amount of any indebtedness to which increment revenues are pledged;
- Deposited into an escrow account for the purpose of later reducing any indebtedness to which increment revenues are pledged; or
- Appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan and the project must be completed within three years from the date of such appropriation.[55]

Each CRA must provide for an annual audit of its redevelopment trust fund, conducted by an independent certified public accountant or firm.[56]

Community Redevelopment Agency Oversight and Accountability

Miami-Dade County Grand Jury Report

A Miami-Dade County grand jury issued a report in 2016 after "learning of several examples of mismanagement of large amounts of public dollars" by CRAs.[57] The report found that some CRA boards were "spending large amounts of taxpayer dollars on what appeared to be pet projects of elected officials" and "there is a significant danger of CRA funds being used as a slush fund for elected officials."[58] In the event funds were misused, the report found that the Act lacked any accountability and enforcement measures.

The report noted that while county and municipal governments may not pledge ad valorem tax proceeds to finance bonds without voter approval, the board of a CRA could pledge TIF funds to finance bonds without any public input.[59]

The grand jury found that redevelopment trust fund money was often used "without the exercise of any process of due diligence, without justification and without recourse."[60] The report noted that the Act does not provide guidelines for the proper use of CRA funds, resulting in questionable expenditures.[61] For example, one CRA highlighted in the report spent $300,000 of its $400,000 budget on administrative expenses. The report also found examples of the CRA funds being used to fund fairs, carnivals, and other community entertainment events.[62] Additionally, the report found that funds might have been misused as part of the CRA contracting process since there is no specified procurement process for CRAs.[63]

While the Act states affordable housing is one of the three primary purposes for the existence of CRAs, the report found that the provision of affordable housing by CRAs "appears to be the exception and not the rule."[64] The report stated that while CRAs cite prohibitive costs as a reason for not developing affordable housing, funds are often used for other purposes.[65] Some CRAs have requested that their boundaries be extended to include areas for low-income housing while not providing any affordable

[54] Section 163.387(6), F.S.
[55] Section 163.387(7), F.S.
[56] Section 163.387(8), F.S.
[57] Miami-Dade County Grand Jury, *Final Report for Spring Term A.D. 2015*, at 1 (filed Feb. 3, 2016).
[58] *Id*. at 7.
[59] *Id*. at 9.
[60] *Id*. at 14.
[61] *Id*. at 15.
[62] *Id*. at 16.
[63] *Id*. at 17.
[64] *Id*. at 19.
[65] *Id*.

housing.[66] Some CRA board members have stated the agencies do not focus on affordable housing because it does not produce sufficient revenue.[67]

Another area of concern for the grand jury was a focus on removing blight by improving the appearance of commercial areas, but leaving slum conditions in place, particularly in the form of multi-family housing that is "unsafe, unsanitary, and overcrowded."[68] The grand jury points to news coverage of some apartment buildings with overflowing toilets and frequent losses of power due to the need for repairs. The report notes the contrast between these conditions and the use of some CRA proceeds to "fund ball stadiums, performing arts centers[,] and dog parks."[69]

The grand jury report also notes that while a finding of necessity is required for creating a CRA, there is no process for determining whether the mission of the CRA has been fulfilled.[70]

The report concludes by making 29 recommendations for ensuring transparency and accountability in the operation of CRAs, including:

- Requiring all CRA boards to contain members of the community;
- Imposing a cap on annual CRA expenditures used for administrative costs;
- Requiring CRAs to adopt procurement guidelines that mirror those of the associated county or municipality;
- Requiring each CRA to submit its budget to the county commission with sufficient time for full consideration;
- Setting aside a percentage of TIF revenue for affordable housing; and
- Imposing ethics training requirements.[71]

Broward County Inspector General Reports

The Broward County Office of the Inspector General has conducted two investigations into CRA operations in the past five years: Hallandale Beach CRA in 2013[72] and Margate CRA in 2014.[73]

The investigation into the Hallandale Beach CRA showed that the agency failed to create a trust fund and that the city commission failed to operate the CRA as an entity separate from the city.[74] The former executive director of the CRA stated the city had "free reign" to use funds from the CRA's account.[75] The report found over $2 million of questionable expenditures by the Hallandale Beach CRA between 2007 and 2012, including $125,000 in inappropriate loans and $152,494 spent on "civic promotions such as festivals and fireworks displays."[76] After some of these issues were brought to the attention of the city and the CRA, the CRA continued working on a funding plan that included spending $5,347,000 on two parks outside of the boundaries of the CRA. The report also found that the CRA paid "substantially more than its appraised value" to purchase a property owned by a church whose pastor was a city commissioner at the time.[77]

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[66] *Id*.
[67] *Id*. at 20.
[68] *Id*. at 22.
[69] *Id*.
[70] *Id*. at 32.
[71] *Id*. at 34-36.
[72] Broward Office of the Inspector Gen., *Final Report Re: Gross Mismanagement of Public Funds by the City of Hallandale Beach and the Hallandale Beach Community Redevelopment Agency*, OIG 11-020 (Apr. 18, 2013).
[73] Broward Office of the Inspector Gen., *Final Report Re: Misconduct by the Margate Community Redevelopment Agency in the Handling of Taxpayer Funds*, OIG 13-015A (July 22, 2014).
[74] *City of Hallandale Beach*, *supra* note 62, at 1.
[75] *Id*. at 28.
[76] *Id*. at 1.
[77] *Id*. at 2.

The investigation of the Margate CRA showed a failure to allocate properly TIF funds received from the county and other taxing authorities.[78] While the CRA stated unused funds were not returned because they were allocated for a specific project, the investigation showed the agency had a pattern of intentionally retaining excess unallocated funds for later use.[79] This pattern of misuse had resulted in a debt to the county of approximately $2.7 million for fiscal years 2008-2012.[80]

Auditor General Report

The Auditor General is required to conduct a performance audit of the local government financial information reporting system every three years.[81] As part of the most recent performance audit, the Auditor General made five findings concerning CRAs and suggestions to enhance current law:

- Create greater specificity as to the types of expenditures that qualify for undertakings of a CRA.
- Provide county taxing authorities more control over expenditures of CRAs created by municipalities to help ensure that CRA trust fund moneys are used appropriately.
- Require all CRAs, including those created before October 1, 1984, to follow the statutory requirements governing the specific authorized uses of CRA trust fund moneys.
- Allow CRAs to provide for reserves of unexpended CRA trust fund balances to be used during financial downturns.
- Require compliance with the audit requirement in s. 163.387(8), F.S., and require such audits to include a determination of compliance with laws pertaining to expenditure of, and disposition of unused, CRA trust fund moneys. [82]

Ethics Training Requirements for Public Officials

Constitutional officers and all elected municipal officers must complete four hours of ethics training on an annual basis.[83] The required ethics training must include instruction on s. 8, Art. II of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings laws. This requirement may be met by attending a continuing legal education class or other continuing professional education class, seminar, or presentation if the required subjects are covered.

Inactive Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law,[84] special act,[85] local ordinance,[86] or by rule of the Governor and Cabinet.[87] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[88] A special district may be "dependent"[89] or "independent."[90] All CRAs are dependent special districts.[91]

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[78] *Margate Community Redevelopment Agency*, *supra* note 63, at 1.
[79] *Id*.
[80] *Id*. at 2.
[81] Section 11.45(2)(g), F.S.
[82] Florida Auditor Gen., Report No. 2015-037 (Oct. 2014).
[83] Section 112.3142, F.S. A "constitutional officer" is defined as the Governor, the Lieutenant Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, state attorneys, public defenders, sheriffs, tax collectors, property appraisers, supervisors of elections, clerks of the circuit court, county commissioners, district school board members, and superintendents of schools.
[84] Section 189.031(3), F.S.
[85] *Id*.
[86] Section 189.02(1), F.S.
[87] Section 190.005(1), F.S. *See*, generally, s. 189.012(6), F.S.
[88] *2017 – 2018 Local Gov't Formation Manual*, 64, available at http://myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911 (last visited Feb. 19, 2018).

The Special District Accountability Program within the Department of Economic Opportunity (DEO) is responsible for maintaining and electronically publishing the official list of all special districts in Florida.[92] The official list currently reports all active special districts as well as those declared inactive by DEO.

Whether dependent or independent, when a special district no longer fully functions or fails to meet its statutory responsibilities, DEO must declare the district inactive by following a specified process.[93] DEO must first document the factual basis for declaring the district inactive.

A special district may be declared inactive if it meets one of the following criteria:

- The registered agent of the district, the chair of the district governing body, or the governing body of the appropriate local general-purpose government:
  - Provides DEO with written notice that the district has taken no action for two or more years;
  - Provides DEO with written notice that the district has not had any members on its governing body or insufficient numbers to constitute a quorum for two or more years; or
  - Fails to respond to an inquiry by DEO within 21 days.[94]
- Following statutory procedure,[95] DEO determines the district failed to file specified reports,[96] including required financial reports.[97]
- For more than one year, no registered office or agent for the district was on file with DEO.[98]
- The governing body of the district unanimously adopts a resolution declaring the district inactive and provides documentation of the resolution to DEO.[99]

Once DEO determines which criterion apply to the district, notice of the proposed declaration of inactive status is published by DEO, the local general-purpose government for the area where the district is located, or the district itself.[100] The notice must state that any objections to declaring the district inactive must be filed with DEO pursuant to chapter 120, F.S., within 21 days after the publication date.[101] If no objection is filed within the 21-day period, DEO declares the district inactive.[102]

After declaring certain special districts inactive, DEO must send written notice of the declaration to the authorities that created the district. If the district was created by special act, DEO sends written notice to the Speaker of the House of Representatives, the President of the Senate, and the standing committees in each chamber responsible for special district oversight.[103] The statute provides that the

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[89] Section 189.012(2), F.S. A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of the governing body of a single county or municipality.
[90] Section 189.012(3), F.S. An "independent special district" is a special district that is not a dependent district.
[91] *See* ss. 163.356, 163.357, F.S. (board of commissions of CRAs are appointed by a local governing body or are the local governing body).
[92] Sections 189.061(1), 189.064(2), F.S. Dept. of Economic Opportunity, Special District Accountability Program, *Official List of Special Districts Online*, http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx (last visited Feb. 19, 2018).
[93] Section 189.062(1), F.S.
[94] Section 189.062(1)(a)1.-3., F.S.
[95] Section 189.067, F.S.
[96] Section 189.066, F.S.
[97] Section 189.062(1)(a)4., F.S. *See* ss. 189.016(9), 218.32, 218.39, F.S.
[98] Section 189.062(1)(a)5., F.S.
[99] Section 189.062(1)(a)6., F.S.
[100] Publication must be in a newspaper of general circulation in the county or municipality where the district is located and a copy must be sent by certified mail to the registered agent or chair of the district's governing body, if any.
[101] Section 189.062(10(b), F.S. The published notice also must include the name of the district, the law under which it was organized and operating, and a description of the district's territory.
[102] Section 189.062(1)(c), F.S.
[103] Section 189.062(3), F.S.

declaration of inactive status is sufficient notice under the Florida Constitution[104] to authorize the repeal of special laws creating or amending the charter of the inactive district.[105] This statute stands in lieu of the normal requirement for publication of notice of intent to file a local bill at least 30 days before introducing the bill in the Legislature.[106]

The property and assets of a special district declared inactive by DEO are first used to pay any debts of the district and any remaining property or assets then escheat to the county or municipality in which the district was located. If the district's assets are insufficient to pay its outstanding debts, the local general-purpose government in which the district was located may assess and levy within the territory of the inactive district such taxes as necessary to pay the remaining debt.[107]

A district declared inactive may not collect taxes, fees, or assessments.[108] This prohibition continues until the declaration of invalid status is withdrawn, revoked by DEO,[109] or invalidated in an administrative proceeding[110] or civil action[111] timely brought by the governing body of the special district.[112] Failure of the special district to challenge (or prevail against) the declaration of inactive status enables DEO to enforce the statute through a petition for enforcement in circuit court.[113]

Declaring a special district to be inactive does not dissolve the district or otherwise cease its legal existence. Subsequent action is required to repeal the legal authority creating the district, whether by the Legislature[114] or the entity that created the district.[115]

Annual Financial Reports for Local Government Entities

Counties, municipalities, and special districts must submit an annual financial report for the previous fiscal year to the Department of Financial Services (DFS).[116] The report must include component units of the local government entity submitting the report. If a local government entity is required to conduct an audit under s. 218.39, F.S., for the fiscal year, the annual financial report, as well as a copy of the audit report, must be submitted to DFS within 45 days of completion of the audit report, but no later than nine months after the end of the fiscal year. If the local government entity is not required to conduct such audit, the annual financial report is due no later than nine months after the end of the fiscal year. Each local government must provide a link to the annual audit report on its website.

Effect of Proposed Changes

Creation and Termination of Community Redevelopment Agencies

The bill provides that the creation of new CRAs on or after October 1, 2018, may only occur by special act of the Legislature. It provides for the termination of existing CRAs at the earlier of the expiration date stated in the agency's charter[117] or on September 30, 2038. However, the governing board of a

[104] Art. III, s. 10, Fla. Const.
[105] Section 189.062(3), F.S.
[106] Section 11.02, F.S.
[107] Section 189.062(2), F.S.
[108] Section 189.062(5), F.S.
[109] Section 189.062(5)(a), F.S.
[110] Section 189.062(5)(b)1., F.S. Administrative proceedings are conducted pursuant to s. 120.569, F.S.
[111] Section 189.062(5)(b)2., F.S. The action for declaratory and injunctive relief is brought under ch. 86, F.S.
[112] The special district must initiate the legal challenge within 30 days after the date the written notice of DEO's declaration of inactive status is provided to the special district. Section 189.062(5)(b), F.S.
[113] Section 189.062(5)(c), F.S. The enforcement action is brought in the circuit court in and for Leon County.
[114] Sections 189.071(3), 189.072(3), F.S.
[115] Section 189.062(4), F.S. Unless otherwise provided by law or ordinance, dissolution of a special district transfers title to all district property to the local general-purpose government, which also must assume all debts of the dissolved district. Section 189.076(2), F.S.
[116] Section 218.32, F.S.
[117] The bill fixes the expiration date stated in the CRA charter as of October 1, 2018.

creating local government entity may prevent the termination of a CRA by a supermajority vote.[118] The bill does not provide a deadline by which such vote must occur.

If a governing board does not vote to continue a CRA with outstanding bond obligations as of October 1, 2018, and those bonds do not mature until after the earlier of the termination date of the agency or September 30, 2038, the bill provides that the CRA remains in existence until the bonds mature. A CRA in operation on or after September 30, 2038, may not extend the maturity date of its bonds. The bill requires a county or municipality operating such existing CRA to issue a new finding of necessity that is limited to meeting the remaining bond obligations of the CRA in a timely manner.

Inactive Community Redevelopment Agencies

The bill provides a new inactivity criterion for CRAs. Any CRA reporting no revenues, no expenditures, and no debt for three consecutive fiscal years beginning on October 1, 2015, must be declared inactive by DEO. DEO must notify the CRA of the declaration of inactive status. If the CRA has no board or agent, the notice of inactive status must be delivered to the governing board of the creating local government entity. The governing board of a CRA declared inactive by this procedure may seek to invalidate the declaration by initiating proceedings under s. 189.062(5), F.S., within 30 days after the date of receipt of the DEO notice.

A CRA declared inactive may only expend funds from its redevelopment trust fund necessary to service outstanding bond debt. The CRA may not expend other funds without an ordinance of the governing body of the creating local government entity consenting to the expenditure of funds.

A CRA declared inactive by DEO in accordance with these criteria is exempt from the provisions of ss. 189.062(2) and 189.062(4), F.S. The bill further provides that the provisions of the new section are cumulative and where conflicting, superior to the provisions of s. 189.062, F.S., which provides special procedures for inactive special districts.

The bill directs DEO to maintain a separate list on its website of CRAs declared inactive pursuant to this new section. By November 1 of each year, the bill also requires DFS to submit an annual report to the Special District Accountability Program listing each CRA with no revenues, no expenditures, and no debt for the previous fiscal year.

Budget

Budget

The bill requires CRAs to comply with the budgeting, auditing, and reporting requirements of s. 189.016, F.S., except as otherwise provided by s. 163.387, F.S.

The bill requires each CRA created by a municipality to submit its budget for the next fiscal year to the board of county commissioners for the county in which the CRA is located within 10 days after the date of the adoption. In addition, all amendments to the CRA's operating budget must be submitted to the board of county commissioners within 10 days after the date of the adoption of the amended budget. The bill also permits a CRA budget to include administrative and overhead expenses directly or indirectly necessary to implement a community redevelopment plan adopted by the CRA.

Redevelopment Trust Fund

Effective October 1, 2018, the bill provides that moneys in the redevelopment trust fund may only be expended pursuant to an annual budget adopted by the board of commissioners of the CRA and only for those purposes specified in current law. The bill removes a three-year time limitation on the rollover

[118] The bill defines a supermajority as a majority of the board members plus one.

of redevelopment trust fund moneys appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan, but requires retained moneys to either be used for the appropriated project or re-appropriated pursuant to the next annual budget of the CRA (if the project is amended, redesigned, or delayed).

The bill authorizes the local governing body that created the CRA to determine the amount of TIF available to the CRA. The local governing body may set the level of funding at any amount between 50 percent and 95 percent of the increment.

Reporting Requirements

Annual Report

Beginning March 31, 2019, and annually thereafter, the bill requires each CRA to submit an annual report to the county or municipality that created the agency and to post the report to the agency's website. The CRA must also publish a notice in a newspaper of general circulation in the community that the report has been filed and is available for inspection during business hours in the office of the clerk of the city or county commission and the office of the agency and on the agency's website. The report must include the most recent audit report of the redevelopment trust fund and provide performance data for each community redevelopment plan overseen by the CRA. The performance data report must include the following information as of December 31 of the year being reported:

- Total number of projects the CRA started, total number of projects completed, and the estimated cost of each project;
- Total expenditures from the redevelopment trust fund;
- Assessed real property values within the CRA's area of authority as of the day the agency was created;
- Total assessed real property values within the CRA as of January 1 of the year being reported;
- Earliest available commercial property vacancy rate within the CRA as of its creation;
- Current commercial property vacancy rates within the CRA;
- Assessed value of real property redeveloped within the CRA as of January 1 of each year reported;
- Earliest available residential property vacancy rates within the CRA as of its creation ;
- Current residential vacancy rate within the CRA;
- Total code enforcement violations within the CRA;
- Total amount expended for affordable housing for low and middle income residents, if the provision of affordable housing was part of the community redevelopment plan;
- Ratio of redevelopment funds to private funds expended within the CRA; and
- Names of sponsors or donors who contribute to the CRA and total amount sponsored or donated.

The bill requires each CRA to post, by January 1, 2019, a digital map on its website depicting the boundaries of the district and the total acreage of the district. If any change is made to the boundaries or total acreage, the bill requires the CRA to post the updated map files within 60 days after the date such change takes effect.

Audit and Financial Report

The bill expands the current reporting requirements for the audit report of the redevelopment trust fund to include:

- A complete financial statement identifying all assets, liabilities, income, and operating expenses of the CRA as of the end of the fiscal year; and
- A finding by the auditor determining whether the CRA complied with the requirements concerning authorized expenditures from the redevelopment trust fund and the use of funds remaining at the conclusion of the fiscal year.

The bill provides that the audit requirement only applies to CRAs with revenues or total expenditures in excess of $100,000. The bill requires the audit report for each CRA to be included with the annual financial report submitted to DFS by the county or municipality that created the CRA, even if the CRA files a separate financial report with the Department of Financial Services under s. 218.32, F.S. If a CRA is created by special act, the bill requires the county or municipality that filed the petition requesting the creation of the CRA to include the audit report with its annual financial report. The audit must be conducted pursuant to rules adopted by the Auditor General. The bill provides that if a county or municipality has a CRA, failure to include the CRA's annual audit as part of its annual report to DFS constitutes a failure to complete the annual financial report under s. 218.32, F.S.

Governance

The bill requires commissioners of a CRA to undergo annually at least four hours of ethics training on addressing constitutional ethics provisions, the Code of Ethics for Public Officers and Employees, and state public records and meetings laws.

The bill requires CRAs to utilize the same procurement and purchasing processes for commodities and services as the county or municipality that created the CRA.

COMMUNITY PLANNING ACT

Present Situation

Comprehensive planning by local governments must coordinate with planning at the state and regional levels. The Community Planning Act balances the state's responsibility to protect the functions of important state resources and facilities with the authority of local governments to guide future growth and development in a manner consistent with their proper roles. Since future land development must conform to applicable plan requirements, comprehensive plans may not unduly restrict private property rights.[119] Comprehensive plans are intended to protect the state's traditional economic base of agriculture, tourism, and military presence, while also encouraging economic diversification, workforce development, and community planning.[120] Consequently, each comprehensive plan must incorporate extensive information and details concerning future land use.[121]

Effect of Proposed Changes

The bill defines the term "master development plan" as a planning document that integrates plans, orders, and other documents used to guide development, including authorized land uses, the amount of horizontal and vertical development, and public facilities including local and regional water storage for water quality and water supply.

The bill requires each rural boundary or urban development boundary enacted by an initiative or referendum to be reconsidered and ratified every 10 years. A referendum to reconsider and ratify a rural boundary or urban development boundary must be held during a general election. The bill requires any rural boundary or urban development boundary adopted by an initiative or referendum before January 1, 2008, to be placed on the ballot for reconsideration and ratification at the first general election occurring after July 1, 2018.

[119] Section 163.3161(10), F.S.
[120] Section 163.3161(11), F.S.
[121] Section 163.3177(6)(a), F.S.

COMMUNITY DEVELOPMENT DISTRICTS

Present Situation

Community Development Districts

Chapter 190, F.S., the "Uniform Community Development District Act of 1980,"[122] sets forth the exclusive and uniform procedures for establishing and operating a community development district (CDD).[123] This type of independent special district[124] is an alternative method to manage and finance basic services for community development.[125] There are currently 641 active CDDs in Florida.[126]

A CDD must act within the constraints of applicable comprehensive plans, ordinances, and regulations of the local general purpose government.[127] CDDs have certain general powers, including the authority to assess and impose ad valorem taxes upon lands in the CDD, sue and be sued, participate in the state retirement system, contract for services, borrow money, accept gifts, adopt rules and orders pursuant to the Administrative Procedure Act (APA),[128] maintain an office, lease, issue bonds, raise money by user charges or fees, and levy and enforce special assessments.[129]

The statute also authorizes additional special powers pertaining to public improvements and facilities, such as systems for water management, water supply, sewer, and wastewater management, as well as roads, bridges, culverts, street lights, buses, trolleys, transit shelters, ridesharing facilities and services, parking improvements, signage, environmental contamination, conservation areas, mitigation areas, and wildlife habitat.[130] With the consent of the applicable local general-purpose government with jurisdiction over the affected area, a CDD may plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for improvements such as parks and recreational areas, fire prevention and control, school buildings and related structures; security; control and elimination of mosquitoes and other arthropods of public health importance; waste collection and disposal.[131]

Establishing a CDD

Petition for Rulemaking by the Florida Land and Water Adjudicatory Commission

The method for establishing a CDD depends upon its size. CDDs of 2,500 acres or more are established by petitioning the Florida Land and Water Adjudicatory Commission (FLWAC)[132] to adopt

[122] Section 190.001, F.S.
[123] Sections 190.004 and 190.005, F.S.
[124] A "special district" is "a unit of local government created for a special purpose… within a limited geographic boundary … created by general law, special act, local ordinance, or by rule of the Governor and Cabinet." Section 189.012(6), F.S. An "independent special district" is characterized by having a governing body the members of which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Section 189.012(3), F.S. Any special district including more than one county is an independent special district, unless the district lies wholly within a single municipality. Section 189.012(3), F.S.
[125] Section 190.003(6), F.S.
[126] Department of Economic Opportunity, *Official List of Special Districts Online – Directory*, available at http://specialdistrictreports.floridajobs.org/webreports/mainindex.aspx (last visited Feb. 19, 2018).
[127] Section 190.004(3), F.S.
[128] Ch. 120, F.S.
[129] Section 190.011, F.S.
[130] Section 190.012(1), F.S. The rule or ordinance establishing the CDD may restrict the special powers authorized in this subsection. Section 190.005(1)(f), (2)(d), F.S.
[131] Section 190.012(2), F.S.
[132] Created by s. 380.07, F.S., the FLWAC is comprised of the Administration Commission, which in turn is created by s. 14.202, F.S., and is composed of the Governor and Cabinet. This distinction affects the requirements for an affirmative vote by the FLWAC. Unless

an administrative rule creating the district.[133] The statute requires each petition to contain specific information, including the written consent to establish the CDD by all landowners[134] of real property to be included in the district.[135] Prior to filing, the petitioner must submit copies of the petition and pay separate filing fees of $15,000 each to the county and any municipality in which the proposed CDD will be located and to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district.[136] The counties and municipalities required to receive copies of the petition may conduct public hearings and express support or objection to the proposed district by resolution and by stating their position before the FLWAC.[137] Additionally, a public hearing on the petition must be held in the county where the CDD will be located; these hearings are conducted under the requirements of the APA[138] before an administrative law judge.[139] Once the hearing process is complete, the entire record is submitted to the FLWAC, reviewed by staff, and placed on the FLWAC meeting agenda for final consideration with the petition.[140] If the petition is approved, staff of the FLWAC initiates proceedings to adopt the rule creating the CDD.

Petition for Ordinance Creating a CDD

CDDs of less than 2,500 acres are established by ordinance of the county having jurisdiction over the majority of land in the area in which the CDD is to be located, with certain exceptions.[141] A petition to establish a CDD is filed with the county commission.[142] After conducting a local public hearing before an administrative law judge,[143] the commission may adopt an ordinance creating the CDD.[144] If any of the land proposed for inclusion in the CDD lies within the area of a municipality the county cannot create the district without approval of the affected municipality.[145]

If all the land proposed for inclusion in the CDD lies within the territorial jurisdiction of a municipality, the petition is filed with that municipality which then exercises the duties otherwise performed by the county commission.[146] In this case, the CDD would be created by municipal ordinance. Within 90 days of receiving the petition, the county commission (or municipality, as applicable) may transfer the petition to the FLWAC.[147] Finally, if all the land of the proposed CDD lies within the territorial jurisdiction of two or more municipalities or two or more counties, the petition must be filed with the FLWAC even if the total area is less than 2,500 acres.[148]

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otherwise provided in law, the statutory voting requirements for the Administration Commission apply and affirmation by the FLWAC requires approval by the Governor and at least 2 Cabinet members.

[133] Section 190.005(1), F.S.

[134] "'Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. Landowner shall also mean the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years." Section 190.003(14), F.S.

[135] Section 190.005(1)(a), F.S.

[136] Section 190.005(1)(b), F.S.

[137] Section 190.005(1)(c), F.S.

[138] The general hearing requirements are stated in ss. 120.569 and 120.57(1), F.S.

[139] Section 190.005(1)(d), F.S.; Rules 42-1.009 & 42-1.012, F.A.C. Chapter 42-1, F.A.C., the procedural rules of the FLWAC, remains substantially unchanged since its adoption in 1982.

[140] Section 190.005(1)(e), F.S. A similar process is followed when the FLWAC considers a proposed merger of existing CDDs. *See* FLWAC Agenda Item 1 and attachments (Aug. 16, 2011), at http://www.myflorida.com/myflorida/cabinet/agenda11/0816/FLWAC0816.pdf (last visited Feb. 19, 2018).

[141] Section 190.005(2), F.S.

[142] Section 190.005(2)(a), F.S. The petition must contain the same information as required for submission to the FLWAC.

[143] Section 190.005(2)(b), F.S. The hearing must follow the same notice and procedural requirements as the local hearing for petitions before the FLWAC.

[144] *See* s. 190.005(2)(d), F.S.

[145] Section 190.005(2)(e), F.S.

[146] *Id*.

[147] Section 190.005(2)(f), F.S.

[148] Section 190.005(2)(e), F.S.

Requirements for Notice, Meeting, and Vote of Landowners in a CDD

The powers of a CDD are exercised by the board of supervisors elected by the landowners of the district.[149] The board must have five members serving two or four year terms.[150] The initial members of the board are designated in the original petition to create the CDD and serve until new members are elected after the district is established.[151] A meeting of landowners for the purpose of electing the board must be held within 90 days of the effective date of the rule or ordinance creating the district.[152] Each landowner is entitled to one vote for each acre owned.[153] The top two candidates are elected to four year terms, while the next three candidates are elected to two year terms.[154] A new board election, held among the qualified electors of the district, occurs when either the board proposes to exercise its ad valorem taxing authority or six years after the formation of the district (10 years for districts exceeding 5,000 acres).[155] Elections for board members selected by qualified electors must be non-partisan general elections conducted by the supervisor of elections.[156]

Expansion or Contraction of a CDD

A landowner or the board of a CDD may petition for the boundaries of the district to be expanded or contracted.[157] This petition must contain the same information as is required to form a district and follows the same hearing process.[158] If the petition seeks to expand the district boundaries, the petition must include a proposed timetable for the construction of any district services in the new area, the estimated cost of constructing the proposed services, and the designation of the future land use plan for the area from the relevant local government local comprehensive plan.[159] If the petition seeks to contract the district boundaries, the petition must include a list of services and facilities currently provided by the district to the removed area, as well as the future land use plan for the area from the relevant local government local comprehensive plan.

For districts established by county ordinance, the petition for expansion or contraction must be filed with the county commission; there is no filing fee requirement.[160] The county commission then conducts a public hearing on the petition in the same manner as for other ordinance amendments. For districts established by FLWAC rule, the petitioner must pay a $1,500 filing fee to each county or municipality in which the proposed resulting CDD will be located and also to each municipality contiguous with or containing a portion of the land proposed for inclusion in the district. The required public meeting is conducted by the board of the CDD instead of a hearing officer.[161]

The amount of land that can be added to a CDD is restricted. Whether a district was initially established by FLWAC rule or county or municipal ordinance, the cumulative additions to the district may not be greater than the lesser of 50 percent of the land area of the initial district or 1,000 acres.[162]

[149] Section 190.006(1), F.S.
[150] *Id*.
[151] Sections 190.005(1)(a)3., 190.005(2)(a), F.S.
[152] Section 190.006(2)(a), F.S.
[153] Section 190.006(2)(b), F.S.
[154] *Id*.
[155] Sections 190.006(3)(a)1.-2., F.S. For CDDs with less than certain minimum numbers of qualified electors after 6 or 10 years, as applicable, the district landowners shall continue to elect the board members (s. 190.006(3)(a)2.a., F.S.) until the number of qualified electors in the district exceeds the statutory minimum (s. 190.006(3)(a)2.b., F.S.).
[156] Section 190.006(3)(b), F.S. The statute does not specify which supervisor of elections conducts the board election if the district encompasses property in more than one county.
[157] Section 190.046(1), F.S.
[158] Sections 190.046(1)(a)-(d), F.S.
[159] Section 190.046(1)(a), F.S.
[160] Section 190.046(1)(b), F.S.
[161] Section 190.046(1)(d)1.-4., F.S.
[162] Section 190.046(1)(e), F.S.

Merger of a CDD

A CDD may be merged with another CDD by filing a petition for merger that states the elements for establishing a new CDD, including being evaluated by the criteria for creating a new district and the submission of the filing fee.[163] The petition must state whether one of the existing districts will be considered the surviving district or if a new district is being created. A CDD may also be merged with other types of special districts using the process for creating a new district, with the CDD inheriting the rights and associated obligations of property and creditors of the merged special district(s). A CDD merging with another type of special district is required to enter a merger agreement to allocate indebtedness to be assumed by the new CDD and the process for retiring the debt. The approval of the merger agreement and the petition by the board of supervisors of the CDD is deemed to constitute the consent of the district landowners.

A CDD may also be merged with up to four other CDDs created by the same local general-purpose government, as long as the membership of each board of directors is composed entirely of qualified electors.[164] This method may be used even if the merged district would have been required to receive FLWAC approval if the CDD was being newly created. The filing of a petition approved by the board of each CDD applying constitutes consent of the landowners within each district.

The CDDs planning to merge must meet the requirements of s. 190.046(3), F.S., and must enter into a merger agreement specifying that:[165]

- The merged district's board will consist of five members;
- Each at-large member of the merged district's board represents the entire district;
- Each former district is entitled to elect at least one board member from its former boundary;
- The member of the merged district's interim board will consist of:
    - If two CDDs merge, two members from each former district and one at-large member
    - If three CDDs merge, one member from each former district and two at-large members
    - If four CDDs merge, one member from each former district and one at-large member
    - If five CDDs merge, one member from each former district; and
- All pre-existing board members' terms will end at the next general election and a new board representing the entire district will be elected.

Before filing the merger petition, each CDD must hold a public hearing to take comment on the proposed merger, the merger agreement, and the assignment of board seats.[166] The hearing must be noticed at least 14 days beforehand. If any CDD withdraws after the public hearing, the remaining districts considering merger must hold a public hearing on a revised merger agreement between the remaining parties. The petition may not be filed for at least 30 days after the last public hearing.

[163] Section 190.046(3), F.S.
[164] Section 190.046(4)(a), F.S.
[165] Section 190.046(4)(b), F.S.
[166] Section 190.046(4)(c), F.S.

Dissolution of a CDD

A CDD remains in existence unless the district is merged with another district, all community development services associated with the district have been transferred to a county or municipal government, or the district is dissolved as provided in statute.[167] A CDD may be dissolved in one of three ways:

- Automatic dissolution: If a landowner does not receive a development permit for some part of the area covered by the CDD within five years of the effective date of the rule or ordinance establishing the district, the CDD is automatically dissolved.[168]
- Action by local government: If a CDD is declared inactive by DEO pursuant to s. 189.062, F.S., the county or municipal government that created the district must be informed and is required to take "appropriate action."[169]
- Petition for dissolution: A CDD with no outstanding financial obligations and no operating or maintenance responsibilities may petition the authority that created the district to dissolve the district by appropriate action.[170] If the district was created by a county or municipal government, the CDD may be dissolved by a non-emergency ordinance.[171] If the district was created by FLWAC rule, the CDD may petition the commission to repeal the rule.

Effect of Proposed Changes

The bill provides that the petition to a county government to create a CDD also may identify lands adjacent to the district within the same county or municipality that the petitioner expects to include in the district boundaries within 10 years (Adjacent Lands). The petition must include the legal description of each parcel within the Adjacent Lands, the names of the current landowners, the acreage of each such parcel, and the current land use designation of each parcel. Current landowners must receive notice of the filing of the petition, the date and time of the public hearing on the petition, and the name and address of the petitioner at least 14 days prior to the public hearing concerning the creation of the CDD. A parcel may only be included with written consent of the landowner.

The bill creates a procedure for expanding the boundaries of a CDD to include those parcels listed as part of the Adjacent Lands in the original petition to create the district. The bill allows a person to file a petition with the county commission to amend the ordinance creating the CDD to expand the boundaries to include one or more parcels identified as Adjacent Lands in the petition creating the district. The annexation petition must include:

- A legal description of each parcel to be annexed;
- A new legal description of the district including the annexed parcels;
- Written consent of all landowners of the parcels to be annexed;
- A map of the district including the annexed parcels;
- A description of the development proposed for each parcel to be annexed; and
- A copy of the original petition establishing the CDD.

The bill prohibits the county commission from charging a filing fee for the petition to annex the Adjacent Lands into the CDD.

The petitioner must provide a copy of the petition to the district and other landowners of parcels of Adjacent Lands to be included in the district before the petition is filed with the county commission.

[167] Section 190.046(2), F.S.
[168] Section 190.046(7), F.S. This subsection also requires a "judge of the circuit shall cause a statement (of dissolution) to be filed in the public records." No guidance is provided as to whether a party must ask the court for the statement, who is authorized to ask, or the procedure to bring the matter before the court.
[169] Section 190.046(8), F.S.
[170] Section 190.046(9), F.S.
[171] *Id*.

If the petition requirements are met, the county commission must amend the ordinance creating the district to include the new parcels. The additional parcels may be added to the boundaries of the district even if the expanded district would have been required to receive FLWAC approval if the district were being newly created. The petitioner is required to provide at least 10 days' notice in a newspaper of general circulation within the county of the scheduled hearing to amend the ordinance. The notice must include a general description of parcel(s) to be included in the district and the date and time of the scheduled hearing. The petitioner is also required to provide 14 days' notice by mail of the hearing to the district board and each landowner of a parcel to be included in the district. These notice requirements are in addition to any notices otherwise required to adopt an ordinance.

The bill provides that the expansion of district boundaries by the method established by the bill does not change the time period for transitioning from a landowner to a qualified elector board under s. 190.006, F.S.

The bill requires the petitioner to file a notice of boundary amendment that reflects the boundaries after adoption of the ordinance amendment.

The bill states that a CDD created by a petition including a list of parcels may use other expansion procedures provided by ch. 190, F.S., in addition to the expansion method created by the bill.

The bill provides that a CDD may merge with a special district created by a special act pursuant to the terms of the special act that created the district.

DEVELOPMENTS OF REGIONAL IMPACT

Present Situation

Background

The term "development of regional impact" (DRIs) means "any development which, because of its character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of citizens of more than one county."[172] Given their size, DRIs are subject to a special review process and often require an amendment to a comprehensive plan.

The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs.[173] The program provided a process to identify regional impacts stemming from large developments and appropriate provisions to mitigate impacts on state and regional resources.

In 2015,[174] the Legislature amended the DRI law to provide that new proposed DRI-sized developments must be approved by comprehensive plan amendment in lieu of the review process in s. 380.06, F.S. The Legislature also amended the comprehensive plan law to require that such plan amendments be reviewed under the state coordinated review process.[175]

Further changes were made to the DRI statutes in 2016 that, in part, required a proposed development, or amendments thereto, otherwise requiring a DRI review, to follow the state coordinated review process if the development or amendment thereto requires an amendment to the comprehensive plan.[176]

[172] Section 380.06(1), F.S.
[173] The Florida Senate, Committee on Community Affairs, Interim Report 2012-114, September 2011, citing: Thomas G. Pelham, *A Historical Perspective for Evaluating Florida's Evolving Growth Management Process*, in Growth Management in Florida: Planning for Paradise, 8 (Timothy S. Chapin, Charles E. Connerly, and Harrison T. Higgins eds. 2005).
[174] Ch. 2015-30, Laws of Fla.
[175] Section 163.3184(2)(c), F.S.
[176] Ch. 2016-148, Laws of Fla.

Developments of Regional Impact Application and Review

Under current law, only existing DRIs that received local government development orders prior to July 1, 2015, and that have not been abandoned or rescinded, are subject to s. 380.06, F.S., including the application and pre-application processes for reviewing proposed DRIs, binding letters, and clearance letters. Other DRI-sized projects must be reviewed and approved by the local government pursuant to a comprehensive plan amendment processed under the state coordinated review process.

Exemptions and Partial Exemptions

The DRI statute includes a number of exemptions and partial exemptions of projects from DRI review. The most recent and significant exemption was created in 2009 for Dense Urban Land Areas (DULAs) characterized by certain population densities.[177] The following list, although not comprehensive, illustrates the various statutory DRI program development exemptions:[178]

- Proposed hospital, electrical transmission line, or electrical power plant;
- Proposed addition to existing sports facility complex meeting specific characteristics or conditions;
- Certain expansion to port harbors, port transportation facilities, and intermodal transportation facilities;
- Facilities for the storage of any petroleum product or any expansion of an existing facility;
- Renovation or redevelopment within the same land parcel that does not change land use or increase density or intensity of use;
- Development within a rural land stewardship area created under s. 163.3248, F.S.; and
- Establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S.

Substantial Deviation

Any proposed change to a previously approved DRI development order that creates a reasonable likelihood of additional regional impact, or any type of regional impact created by the change not previously reviewed by the regional planning agency, constitutes a "substantial deviation" and requires such proposed change to further DRI review.[179] To determine whether a proposed change requires further DRI review, Florida law establishes the following:

- Certain threshold criteria beyond which a change constitutes a substantial deviation;[180]
- Certain changes in development that do not amount to a substantial deviation;[181]
- Scenarios in which a substantial deviation is presumed;[182] and
- Scenarios in which a change is presumed not to create a substantial deviation.[183]

In addition, Florida law directs DEO to establish by rule standard forms for submittal of proposed changes to a previously approved DRI development order.[184] At a minimum, the form must require the developer to provide the precise language that the developer proposes to delete or add as an amendment to the development order.[185] The developer must submit the form to the local government,

[177] Section 380.06(29), F.S.
[178] Section 380.06(24), F.S.
[179] Section 380.06(19)(a), F.S.
[180] Section 380.06(19)(b), F.S.
[181] Section 380.06(19)(e), F.S.
[182] Section 380.06(19)(c), F.S.
[183] Section 380.06(19)(d), F.S.
[184] Section 380.06(19)(f), F.S.
[185] *Id.*

the regional planning agency, and DEO.[186] Applicable review and notice deadlines are outlined in statute for regional planning agencies, DEO, and public hearings to consider the change. [187]

At the public hearing, the local government must determine whether the proposed change requires further DRI review based on the thresholds and standards set out in law.[188] The local government may deny the proposed change based on matters relating to local issues, such as if the land on which the change is sought is plat restricted in a way that would be incompatible with the proposed change, and the local government does not wish to change the plat restriction as part of the prosed change.[189]

If the local government determines that the proposed change does not require further DRI review and is otherwise approved, the local government must issue an amendment to the development order incorporating the approved change and conditions of approval relating to the change.[190] If, however, the local government determines that the proposed change does require further DRI review, the local government must determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development.[191]

The owner, developer, or state land planning agency are authorized to file an administrative challenge to the adopted development order or a development order amendment with the Florida Land and Water Adjudicatory Commission on the ground that it is not consistent with statutory requirements of ch. 380, F.S., and applicable rules governing DRIs.[192]

Aggregation of Developments

Section 380.0651, F.S., directs the Administration Commission[193] to adopt statewide guidelines and standards for developments to undergo DRI review. As part of such guidelines and standards, the law addresses when two or more developments must be "aggregated" and treated as a single development.[194]

Specifically, two or more developments must be aggregated when they are determined to be part of a unified plan of development and are physically proximate to one other.[195] Three of the following four criteria must be met to determine that a "unified plan of development" exists:

1. The same person has retained or shared control of the development, the same person has ownership or a significant legal interest in the developments, or the developments share common management controlling the form of physical development or disposition of parcels of the development;
2. There is reasonable closeness in time between the completion of 80 percent or less of one development and the submission to a governmental agency of a master plan or series of plans or drawings for the other development, which is indicative of a common development effort;
3. A master plan or series of plans or drawings exists covering the developments sought to be aggregated, which have been submitted to certain government bodies; and
4. There is a common advertising scheme or promotion plan in effect for the developments.[196]

Despite the finding of physical proximity and the existence of a unified plan, Florida law also provides for circumstances in which aggregation is not applicable.[197]

[186] Section 380.06(19)(f)2., F.S.
[187] Section 380.06(19)(f)3-4., F.S.
[188] Section 380.06(19)(f)5., F.S.
[189] *Id.*
[190] Section 380.06(19)(f)6., F.S.
[191] Section 380.06(19)(g), F.S.
[192] Section 380.07, F.S.
[193] The Administration Commission is part of the Executive Office and is composed of the Governor and Cabinet, s. 14.202, F.S.
[194] Section 380.0651(4), F.S.
[195] *Id.*
[196] Section 380.0651(4)(a), F.S.

Florida Quality Development Program

The Legislature created the Florida Quality Development (FQD) program to encourage development that has been thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire. The law intended for the developer to be provided, through a cooperative and coordinated effort, an expeditious and timely review by all agencies with jurisdiction over the proposed development.[198]

To be eligible for a designation under the FQD program, the developer must comply with certain requirements if applicable to the site of qualified development, including, but not limited to:

- Donating or entering into a binding commitment to donate the fee or a lesser interest sufficient to protect, in perpetuity, the natural attributes of certain types of lands such as wetlands, beaches, and lands with protected animals or plant species;
- Downtown reuse or redevelopment program to rehabilitate a declining downtown area;
- Include open space, reaction areas, Florida-friendly landscaping, and energy conservation and minimize impermeable surfaces as appropriate to the location and type of project; and
- Design and construct the development in a manner consistent with the adopted state plan, the applicable strategic regional policy plan, and the applicable adopted local government comprehensive plan.[199]

In 2002, DEO issued the last FQD order. The department has not received any further development order requests since that time.[200]

Effect of Proposed Changes

The bill eliminates state and regional review of existing DRIs and transfers the responsibility for implementation of, and amendments to, DRI development orders to the local governments in which the developments are located.

The following existing letters, development orders, and agreements are preserved in the bill:

- Binding letters;
- Clearance letters issued by the state land planning agency as to whether a proposed development is subject to DRI review;
- Agreements with respect to an approved DRI previously classified as essentially built out;
- Capital contribution front-ending agreements between a local government and a developer as part of a DRI development order to reimburse the developer for voluntary contributions paid in excess of his or her fair share;
- Any previously granted extensions of time for DRI development orders;
- Agreements previously entered into by a developer, a regional planning agency, and a local government regarding a project that includes two or more DRIs; and
- Approvals of an authorized developer for an area wide DRI.

Upon request by the developer, the bill authorizes a local government to amend a binding letter of vested rights based on standards and procedures in the adopted local comprehensive plan or the adopted local land development code.

The bill provides that, notwithstanding any comprehensive plan or land development regulation, an amendment to a DRI development order by a local government may not amend to an earlier date, the

[197] Section 380.0651(4)(c), F.S.
[198] Section 380.061(1), F.S.
[199] Section 380.061(3)(a), F.S.
[200] Department of Economic Opportunity, Agency Analysis of 2018 SB 1244, p. 3 (Dec. 22, 2017).

date currently agreed to by the local government not to impose downzoning, unit density reduction, or intensity reduction on the development.

If a local government rescinds a development order for a DRI, the bill authorizes the developer to record notice of the rescission.

The bill provides that, notwithstanding any comprehensive plan or land development regulation, the adoption of an amendment to a DRI development order does not diminish or otherwise alter any credits for a development order exaction or fee against impact fees, mobility fees, or exactions when based upon the developer's contribution of land or a public facility.

The bill removes the requirement for a developer to submit a report on the DRI to the local government, the regional planning agency, the state land planning agency, and all affected permit agencies unless required to do so by the local government that has jurisdiction over the development.

Substantial deviation criteria for development order changes are deleted by the bill and replaced with the authorization for local governments to review proposed changes based on the standards and procedures in its adopted local comprehensive plan and local land development regulations including procedures for notice to the applicant and the public. However, if a change to a DRI has the effect of reducing the originally approved height, density, or intensity of the development and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved, the local government may approve the change.

For the abandonment of a DRI, the bill provides that abandonment will be deemed to have occurred when the required notice is filed by the local government with the county clerk. If requested by the owner, developer, or local government, the DRI development order must be abandoned by the local government if all required mitigation related to the amount of development that existed on the date of abandonment has been or will be completed under an existing permit or authorization enforceable through an administrative or judicial remedy.

The bill allows proposed developments that exceed statewide guidelines and standards provided in s. 380.0651, F.S., which are not otherwise exempt, to be approved by a local government pursuant to s. 163.3184, F.S., If the proposed development is consistent with the comprehensive plan, the development is not required to undergo review pursuant to s. 163.3184, F.S., or the provisions of the bill. These provisions do not apply to amendments to a development order governing an existing DRI or to any application for development approval filed with a concurrent plan amendment pending as of May 14, 2015, if the applicant elects in writing to have the application reviewed pursuant to s. 380.06, F.S., and files such documentation with the affected local government, regional planning council, and state land planning agency before December 31, 2018.

The bill transfers the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review.

The bill deletes the criteria for determining when two or more developments must be "aggregated" and treated as a single development for the purposes of DRI review.

The bill amends the DRI appeals process to the Florida Land and Water Adjudicatory Commission to include only appeals from decisions by local governments to abandon an approved DRI. However, no changes are made regarding the authority of the commission to review development orders in areas of critical state concern.

The bill ends the FQD program and requires local governments with a currently approved FQD within its jurisdiction to set a public hearing and adopt a local development order to replace and supersede the

development order adopted by the state land planning agency. Thereafter, the FQD must follow the same procedures established for DRI-sized development projects.

The bill repeals DEO's DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules related to DRI aggregation.

B. SECTION DIRECTORY:

Section 1: Amends s. 112.3142, F.S., specifying ethics training requirements for CRA commissioners.

Section 2: Amends s. 163.3167, F.S., requiring rural boundaries and urban development boundaries created by initiative or referendum to be ratified every 10 years.

Section 3: Amends s. 163.356, F.S., requiring a county or municipality, by resolution, to petition the Legislature to create a new CRA; establishing procedures for appointing members of the CRA board; providing reporting requirements.

Section 4: Amends s. 163.367, F.S., requiring ethics training for CRA commissioners.

Section 5: Amends s. 163.370, F.S., establishing procurement procedures for CRAs.

Section 6: Creates s. 163.371, F.S., providing reporting requirements; requiring publication of notices of reports; requiring reports to be available for inspection in designated places; requiring a CRA to post annual reports and boundary maps on its website.

Section 7: Creates s. 163.3755, F.S., providing termination dates for certain CRAs; requiring the creation of new CRAs to occur by special act after a time certain; providing a phase-out period for existing agencies under specified circumstances.

Section 8: Creates s. 163.3756, F.S., providing legislative findings; providing criteria for DEO to determine whether a CRA is inactive; establishing hearing procedures; requiring DEO to maintain a separate website identifying all inactive CRAs.

Section 9: Amends s. 163.387, F.S., specifying the level of TIF that the governing body may establish for funding the redevelopment trust fund; revising requirements for expenditure of redevelopment trust fund proceeds; revising requirements for the annual budget of a CRA; revising annual audit requirements.

Section 10: Amends s. 190.046, F.S., providing procedures for the inclusion in the district of parcels included in the petition to create a community development district.

Section 11: Amends s. 218.32, F.S., requiring local governments to include CRA annual audit reports as part of the local government entity's annual audit report to DFS.

Section 12: Amends s. 380.06, F.S., removing state and regional requirements relating to developments of regional impact.

Section 13: Amends s. 380.061, F.S., deleting provisions relating to the FQD program; specifying the program only applies to previously approved developments in the program before the effective date; specifying a process for local governments to adopt a local development order to replace and supersede the development order adopted by the state land planning agency for FQDs.

Section 14: Amends s. 380.0651, F.S., deleting provisions relating to the superseding of guidelines and standards adopted by the Administration Commission and the publishing of

guidelines and standards; specifying exemptions and partial exemptions from development-of-regional-impact review; deleting provisions relating to circumstances where developments should be aggregated.

Section 15: Amends s. 380.07, F.S., deleting Florida Land and Water Adjudicatory Commission requirements relating to DRI administrative challenges.

Section 16: Amends s. 380.115, F.S., conforming provisions relating to vested rights and duties.

Section 17: Amends s. 125.68, F.S., conforming a cross-reference relating to codification of ordinances.

Section 18: Amends s. 163.3245, F.S., conforming cross-references and revising provisions relating to sector plans.

Section 19: Amends s. 163.3246, F.S., conforming cross-references relating to local government comprehensive planning certification program.

Section 20: Amends s. 189.08, F.S., conforming cross-references relating to special district public facilities report.

Section 21: Amends s. 190.005, F.S., conforming cross-references relating to establishment of special district.

Section 22: Amends s. 190.012, F.S., conforming cross-references relating to special district powers.

Section 23: Amends s. 252.363, F.S., conforming cross-references relating to tolling and extension of permits and other authorizations.

Section 24: Amends s. 369.303, F.S., making conforming changes.

Section 25: Amends s. 369.307, F.S., conforming cross-references relating to DRIs in the Wekiva River Protection Area.

Section 26: Amends s. 373.236, F.S., conforming a cross-reference relating to duration of water management district permits.

Section 27: Amends s. 373.414, F.S., conforming cross-references relating to surface waters and wetlands.

Section 28: Amends s. 378.601, F.S., making technical changes.

Section 29: Repeals s. 380.065, F.S., relating to certification of local government review of development.

Section 30: Amends s. 380.11, F.S., conforming cross-reference relating to enforcement provisions.

Section 31: Amends s. 403.524, F.S., conforming cross-references relating to certification of transmission lines.

Section 32: Repeals DEO DRI and FQD rules in Chapter 73C-40, F.A.C., and Administration Commission rules relating to DRI aggregation.

Section 33: Provides direction to the Division of Law Revision.

Section 34: Provides that the act takes effect July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may require expenditures by DEO and DFS to the extent additional staff are necessary to comply with duties created by the bill concerning CRAs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill would increase revenue to some local governments operating CRAs to the extent ad valorem taxation that would otherwise be received by those governments is currently deposited in the redevelopment trust fund.

2. Expenditures:

   The bill may increase expenditures for local governments to the extent the supervisor of elections charges the local government a fee for including a ballot question concerning rural boundary or urban development boundary ratification on the general election ballot.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill eliminates the remaining responsibilities of DEO related to the review of DRI development order amendments and preparing FQD development order amendments. The time required for these functions has been minimal over the past few years according to the department. Consequently, the bill should have a minimal fiscal impact on the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 16, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment removed duplicative language and the requirement that a petitioner provide itself a copy of the petition. The amendment also provided for the petition to record a notice of boundary amendment that reflects the new boundaries of the district.

On February 22, 2018, the Government Accountability Committee adopted a proposed committee substitute and reported the bill favorably with committee substitute. The proposed committee substitute revised the bill in the following ways:

- Provided that a rural boundary or urban development boundary created by initiative or referendum must be ratified every 10 years at a general election and provided for the ratification of existing boundaries;
- Increased accountability and transparency for CRAs by requiring annual ethics training, establishing reporting requirements, providing moneys in the redevelopment trust fund may only be expended pursuant to an annual budget for purposes provided in current law, and requiring counties and municipalities to include CRA data in their annual financial report;
- Provided for creation of new CRAs on or after October 1, 2018, only by special act of the Legislature and a phase-out for existing CRAs not reauthorized by the creating local government;
- Provided a process declaring a CRA inactive if it reports no revenues, no expenditures, and no debt for three consecutive fiscal years;
- Eliminated state and regional review for existing DRIs, eliminated the FQD program, and transferred the responsibility for implementation of, and amendments to, DRI and FQD development orders to the local governments in which the developments are located;
- Transferred the DRI exemptions and partial exemptions currently found in s. 380.06, F.S., to s. 380.0651, F.S., which contains the statewide guidelines and standards for determining whether a proposed development is a DRI-sized development subject to state coordinated review;
- Deleted the criteria for determining when two or more developments must be “aggregated” and treated as a single development for the purposes of DRI review and deleted the substantial deviation criteria for development order changes;
- Eliminated all DRI appeals to the Florida Land and Water Adjudicatory Commission except for decisions by local governments to abandon an approved DRI; and
- Repealed DEO’s DRI and FQD rules and Administration Commission rules related to DRI aggregation.

This analysis is drafted to the committee substitute as passed by the Government Accountability Committee.