

May 22, 2005

Gainesville City Commission  
P.O. Box 490, Station 19  
Gainesville, FL 32601-0490

Dear Mayor Harahan and Board of City Commissioners,

Thank you for the opportunity to represent the City of Gainesville before the Florida Legislature. The City staff and legislative delegation and their staff have been very supportive of our legislative objectives. Our efforts were focused on funding issues and with a short start time prior to session, the results are positive.

**Water Projects**

- The delegation was successful in securing \$1.1 million for the City's top priority, The Downtown Stormwater Basin and Park (The Depot Project).
- Additionally, the Legislature appropriated \$750,000 to the SJWMD's Orange Creek Basin Initiative, of which \$550,000 is earmarked for construction of the City of Gainesville's Sweetwater Branch wetland treatment project.
- The Hogtown Creek Greenway FRDAP grant was funded at \$200,000.
- Preparations are already underway in preparation of the 2006 Session. Some of our water projects may be folded into the St. Johns Water Management District's Orange Creek Basin Initiative. Others may be appropriately secured through the Legislatures' Community Budget Issue Request process. The Florida Communities Trust at the Florida Department of Community Affairs provides funding for which some of our initiative may qualify. Additionally, the Legislature passed and funded growth management legislation, which can provide opportunities to move these vital projects forward.

**Reichert House Program**

The delegation was effective in securing \$175,000 for the Regional Juvenile Crime prevention Initiative (Reichert House).

### **Alcoholic Beverage Abuse Promotions**

The threat of legislative activity by the Gainesville Delegation was instrumental in facilitating discussions with the primary Tallahassee representatives of the alcoholic beverage industry (Florida Alcohol and Hospitality Industry Coalition) and Mayor Harahan. These led to an agreement to introduce an outreach program for hospitality businesses that is complimentary to the efforts of the City. Senator Rod Smith has indicated that an assessment of the progress of this approach will be made in January 2006 to determine whether a legislative remedy should be pursued.

### **Community Redevelopment Agencies**

HB 1521 (Sorensen) and SB 2060 (Baker) represented the most damaging proposals relating to CRA's. Identical bills, they would have required Tax Increment Financing to be forfeited to the county when one of three triggering mechanisms occur (20 years, property value increase, or referendum). The proposal would have had an adverse impact on a CRA's ability to address redevelopment concerns.

Working with the League of Cities and the Florida Redevelopment Authority Association, we were successful in defeating the proposal.

### **Growth Management (SB 360)**

A bountiful state revenue forecast was instrumental in enabling the Legislature to update the state's growth management laws. It provides \$1.5 Billion for transportation, water and sewer, and education infrastructure funding in F.Y. 05-06 and commits an additional \$750 Million annually thereafter. (Senate summary attached)

**Water Supplies ( CS/CS/CS/SB 444)**

This bill provides for a Water Protection and Sustainability Program within the Department of Environmental Protection. It will provide a source of funding for four major water programs:

- 1) Alternative Water Supply Development
- 2) Total Maximum Daily Loads (TMDL's)
- 3) Surface Water Improvement and Management (SWIM)
- 4) DEP's Disadvantaged Small Community Wastewater Grant Programs

Appropriations for these programs in F.Y. 05-06 amount to \$100 Million recurring and \$100 Million non-recurring (Agency summary attached).

We will be working with you and your staff to ensure that the City is able to participate in the opportunities provided in the newly enacted measures and accompanying funding.

We appreciate the opportunity to work with you, the Commission, and the City staff. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Doug Bruce" followed by a horizontal line.

H. Douglas Bruce

Doug Bruce & Associates

HDB:jak

### **HB 499 — Property Appraiser Assessments**

by Rep. Antone and others (CS/SB 1270 by Government Efficiency Appropriations and Senators Saunders and Constantine)

This bill requires real property to be physically inspected every 5 years for purposes of assessing the value of the property rather than every 3 years. Additionally, the bill revises the definition of the term "outdoor recreational and park purposes" (for the assessment of certain lands) to clarify the meaning of the term, "open to the general public" as applied to a golf course.

If approved by the Governor, these provisions take effect upon becoming law.

*Vote: Senate 37-0; House 106-7*



### **GROWTH MANAGEMENT**

#### **CS/CS/CS/SB 360 — Infrastructure Planning and Funding**

by Ways and Means Committee; Transportation Committee; Community Affairs Committee; and Senator Bennett

The bill appropriates \$1.5 billion in new money for various transportation, water and school infrastructure programs and makes numerous changes to the laws governing growth management in Florida.

Specifically, the bill requires a local government's comprehensive plan to be financially feasible and the capital improvements element in a local comprehensive plan to include a schedule of improvements that ensure the adopted level-of-service standards are achieved and maintained. Also, it requires an annual review of the capital improvements element to maintain a financially feasible 5-year schedule of capital improvements. Capital improvements element amendments must be adopted and transmitted no later than December 1, 2007. The bill provides for sanctions if the amendment and subsequent updates are not transmitted timely.

The bill strengthens the link between development approval and water supply planning. Specifically, the potable water element must incorporate water supply projects identified by the local government from the regional water supply plan or proposed by the local government within 18 months after the update of the regional water supply plan. Prior to the approval of a building permit or its functional equivalent, a local government is required to consult with the applicable water supplier to determine whether adequate water supplies will be available to serve the new development at the certificate of occupancy.

Adequate school facilities must be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval. Each local government must adopt a public school facilities element and the required update to the interlocal agreement by December 1,

2008. The state land planning agency shall provide a phased schedule for these amendments. The bill requires a local government's comprehensive plan to include proportionate fair-share mitigation options for schools.

Transportation facilities must be in place or under actual construction within 3 years from the local government's approval of a building permit or its functional equivalent that results in traffic generation. Each local government must adopt a methodology for assessing proportionate fair-share mitigation options by December 1, 2006. A developer may choose to satisfy transportation concurrency requirements by contributing or paying proportionate fair-share mitigation for those facilities or segments that are identified in the 5-year schedule of capital improvements. Updates to the 5-year schedule may not be found not in compliance by the state land planning agency if additional contributions or payments are reasonably anticipated during a 10-year period to fully mitigate impacts on the transportation facilities. If the funds in an adopted 5-year schedule are insufficient to fully fund construction of the transportation improvements required by the local government's transportation concurrency management system, the local government may still enter into a binding proportionate share agreement with the developer. This agreement would allow a developer to construct the amount of development on which the proportionate fair share is calculated if the amount in the agreement is sufficient to pay for an improvement that will, in the opinion of a governmental entity, significantly benefit the impacted transportation system.

The bill revises the rural land stewardship area program to require a plan amendment establishing such an area to provide a process for mixed land uses that include adequate available work force housing and affordable housing. Also, a stewardship receiving area must have a listed species survey. The bill addresses the issue of balancing the impacts to areas developed as receiving areas and the environmental benefits of protected areas when determining the adequacy of protection of listed species habitat within rural land stewardship areas. Following adoption of the plan amendment, the local government must adopt a methodology for the transfer of credits within the rural land stewardship area by ordinance.

This bill increases the 10-acre residential density limitation for small scale amendment review within a rural area of critical economic concern as designated under s. 288.0656(7), F.S., if the local government certifies that certain economic objectives are met. The bill also amends the 10-acre residential density threshold for small scale review to include amendments for which the proposed future land use category allows a maximum residential density that is the same or less than the density allowable under the existing future land use category. Small scale amendment review is also provided for amendments involving the construction of affordable housing units meeting certain criteria.

A local government is encouraged to develop a community vision. The process of developing a community vision requires the local government to hold a workshop with stakeholders and two public hearings. Also, a local government is encouraged to adopt an urban service boundary. This area must be appropriate for compact, contiguous urban development within a 10-year

planning timeframe. The establishment of an urban service boundary does not preclude development outside the boundary.

As an incentive for development within an urban service boundary established under the provisions of the bill or in an urban infill and redevelopment area as designated under s. 163.2517, F.S., the bill provides for small scale review of map amendments within the urban service boundary or designated urban infill and redevelopment area. However, this provision does not apply in areas of critical state concern or to amendments that would increase densities in high hazard coastal areas. As an additional incentive, development within an urban service boundary is exempt from development-of-regional-impact review if the local government has entered into a binding agreement with certain jurisdictions and the FDOT regarding the mitigation of certain impacts and has adopted a proportionate share methodology. This exemption from development-of-regional-impact review is also extended to proposed development within a Rural Land Stewardship Area and proposed development or redevelopment within an urban infill and redevelopment area designated under s. 163.2517, F.S.

The bill address the evaluation and appraisal report process under s. 163.3191, F.S. Amendments to update a comprehensive plan based on an evaluation and appraisal report (EAR) must be adopted during a single amendment cycle within 18 months after the report is determined to be sufficient by the state land planning agency. Beginning July 1, 2006, failure to timely adopt and transmit update amendments to the comprehensive plan based on the EAR shall result in a prohibition on plan amendments until the EAR-based amendments are adopted and transmitted to the state land planning agency.

The Office of Program Policy Analysis and Government Accountability is directed to perform a study by December 31, 2005, regarding adjustments to the boundaries of the Florida Regional Planning Councils, Florida Water Management Districts, and Florida Department of Transportation Districts. The written report will be submitted to the Governor and the Legislature by January 15, 2006.

The bill creates the 15-member Century Commission for a Sustainable Florida with its members to be appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. One member will be designated by the Governor as Chairman. The members will represent diverse interests, with the first meeting to be held not later than December 1, 2005. Beginning January 16, 2007, the Century Commission will send an annual written report to the Governor and the Legislature. The President of the Senate and the Speaker of the House of Representatives will create a joint select committee in 2007 to review the findings and recommendations of the commission.

This bill creates the School Concurrency Task Force to review the requirements for school concurrency in law and make recommendations regarding streamlining the process and procedures for establishing school concurrency. The 11-member task force must report to the

Governor and the Legislature by December 1, 2005, with specific recommendations for revisions to the Florida Statutes and administrative rules.

In addition, the bill creates the Florida Impact Fee Review Task Force to be composed of 15 members who are charged with surveying and reviewing the current use of impact fees as a method of financing local infrastructure to accommodate new growth and current case law controlling the use of impact fees. The Legislative Committee on Intergovernmental Relations will serve as staff to the task force. The task force shall provide a report to the Governor and the Legislature by February 1, 2006.

The bill establishes the Transportation Regional Incentive Program for the purpose of providing funds to improve regionally significant facilities in regional transportation areas. Funding awarded for projects under this program require a 50-percent local match from funds other than a state-funded infrastructure bank loan. For a 2-year period, the bill allows the Florida Department of Transportation to include right-of-way services as part of certain design-build contracts and to combine the design and construction phases of any project into a single contract.

This bill provides funding for the Water Protection and Sustainability Program in s. 403.890, F.S., which is created in SB 444. Also, this bill establishes the High Growth District Capital Outlay Assistance Program in s. 1013.78, F.S., to provide funds for qualifying high student enrollment growth school districts. This bill provides additional funding for school construction to districts meeting the program's criteria. The eligibility criteria for this program includes a requirement that the school district must have levied the full 2 mills of nonvoted discretionary capital outlay millage for each of the past 4 fiscal years. Under the criteria, a district must have also equaled or exceeded twice the statewide average of growth in capital outlay FTE students over this same 4-year period. Although the Legislature may appropriate additional funds for the program, the annual appropriation contained in the bill is \$30 million.

Under this bill, a landowner that filed an application for development of regional impact review before the adoption of an optional sector plan may elect to have the application reviewed under the development-of-regional-impact program and the comprehensive plan provisions in place before the adoption of the sector plan. The bill grandfathers developments of regional impact from the provisions of the bill amending chs. 163 and 380, F.S., if the development order has been issued or the application submitted prior to May 1, 2005.

The bill appropriates \$3 million annually from the Grants and Donations Trust Fund to the Department of Community Affairs for technical assistance. Also, \$250,000 is annually appropriated to support the Century Commission.

The bill appropriates \$1.5 billion, consisting of \$750 million nonrecurring and \$750 million recurring, for 2005-2006 to fund specified transportation, school, and water projects. It appropriates \$750 million annually, thereafter, to fund these types of projects. The following table outlines the appropriations contained in this bill.

Appropriations in S 360	Recurring DOC Stamp	Non-recurring General Revenue
<b>State Transportation Trust Fund</b>		
New Starts Transit Program	\$54.175 million	
Small County Outreach Program	\$27.0875 million	
Strategic Intermodal System	\$345.3656 million	\$175 million*
Transportation Regional Incentive Program	\$115.1219 million	\$275 million
State Infrastructure Bank		\$100 million
County Incentive Grant Program		\$25 million
<b>Subtotal</b>	<b>\$541.75 million</b>	<b>\$575 million</b>
<b>Department of Environmental Protection</b>		
Water Protection and Sustainability Trust Fund	\$100 million	\$100 million
<b>Subtotal</b>	<b>\$100 million</b>	<b>\$100 million</b>
<b>Public Education Capital Outlay</b>		
Classrooms For Kids	\$75 million**	\$41.65 million
High Growth District Capital Outlay Assistance Grant Program	\$30 million	\$30 million
<b>Subtotal</b>	<b>\$105 million</b>	<b>\$71.65 million</b>
<b>DCA Grants and Donations Trust Fund</b>		
Technical Assistance	\$3 million	\$3 million
Century Commission	\$250,000	\$250,000
School Concurrency Task Force		\$50,000
Impact Fee Task Force		\$50,000
<b>Subtotal</b>	<b>\$3.25 million</b>	<b>\$3.35 million</b>
<b>Totals for 2005-2006</b>	<b>\$750 million</b>	<b>\$750 million</b>
<p>* S 360 appropriates \$200 million for 2005-2006 to fund projects on the Strategic Intermodal System. This appropriation should be reduced to \$175 million in the glitch bill for the 2006 session.</p> <p>** S 360 appropriates \$75 million from doc stamp revenue to PECO, but only transfers \$41.75 million to the Classrooms for Kids program in 2005-2006. The balance of \$33.25 should be transferred in the glitch bill for the 2006 session or transferred pursuant to a budget amendment before the LBC during the fiscal year.</p>		

If approved by the Governor, these provisions take effect July 1, 2005.

Vote: Senate 40-0, House 114-0

### HB 517 — University Campus Planning

by Rep. Cannon and others (SB 2614 by Senator Constantine)

The bill amends s. 1013 30, F.S., which governs the development and adoption of university campus master plans. It requires a university campus master plan to identify the general location of structures. The bill provides for an electronic copy of the draft master plan to the host local government, any affected local government, reviewing agencies, and the applicable water



**WATER SUPPLIES**  
**CS/CS/CS SB 444, 1<sup>st</sup> Engrossed**

**I. The Florida Water Protection and Sustainability Program**

The bill creates a new Water Protection and Sustainability Program within the Department of Environmental Protection (DEP) with the purpose of providing a source of funding for four programs, specifically:

- Alternative Water Supply Development
- Total Maximum Daily Loads (TMDLs)
- Surface Water Improvement and Management (SWIM)
- DEP's Disadvantaged Small Community Wastewater Grant programs

Funding for the Water Protection and Sustainability Program is made available from recurring and non-recurring general revenue (GR). For FY 05/06 the legislature committed \$100 M in what will be recurring GR, and, \$100 M in non-recurring GR for the implementation of the program.

**Revenue Distribution**

In FY 05/06 the revenues for the Water Protection and Sustainability Program will be distributed as follows:

1. Alternative Water Supply Development: 50% or \$100 million to DEP, which must in turn be passed through to the water management districts for the purpose of funding the development of alternative water supplies in the following percentages:
  - SFWMD 30% (\$30 million)
  - SWFWMD 25% (\$25 million)
  - SJRWMD 25% (\$25 million)
  - SRWMD 10% (\$10 million)
  - NFWMD 10% (\$10 million)
  
2. Total Maximum Daily Loads (TMDLs): 25% or \$50 million divided as follows:
  - DEP – 85% (\$42.50 million) to address water quality impacts from nonagricultural nonpoint sources through funding capital projects and best management practices.
  - DACS – 15% (\$7.50 million) to address water quality impacts from agricultural nonpoint sources through funding best management practices.

*In addition, DACS still receives doc stamp revenues directly under the provision in s. 201.15(8), but DEP's distribution of direct doc stamp funding has been deleted.*

3. Surface Water Improvement and Management (SWIM): 12.5% or \$25 million divided as shown below. The bill also requires a 50% cash or in-kind match for all entities receiving SWIM funding.
  - SFWMD 35% (\$8.75 million)
  - SWFWMD 25% (\$6.25 million)
  - SJRWMD 25% (\$6.25 million)
  - SRWMD 7.5% (\$1.875 million)
  - NFWWMD 7.5% (\$1.875 million)
  
4. DEP Disadvantage Small Community Program: 12.5% or \$25 million.

In future years funds deposited into the Water Protection and Sustainability Program Trust Fund shall be allocated as follows:

- 60% to Alternative Water Supply Development
- 20% to Total Maximum Daily Loads (TMDLs) Implementation
- 10% to Surface Water Improvement and Management (SWIM), and
- 10% to the Disadvantaged Small Community Wastewater Grant Program

## **II. Alternative Water Supply Development**

The bill promotes the development of alternative water supplies through legislative findings, intent, and direction to the water management districts and specifically:

- Provides that the funding for development of alternative water supplies shall be a shared responsibility of the local water provider and users, the WMDs and the State, with the local governments and users having the primary responsibility. The role of the WMDs and State is to be water supply funding assistance.
- Provides that each WMD provide for supporting and funding alternative water supply development *from their non-state revenues* that is at least equal to 100% of the amount of state funds made available each year to that WMD. WMDs must report the amount allocated in their tentative and final budget submittals, and if the goal cannot be met, they must explain why.
- The state and WMD funds are to be distributed through an alternative water supply grants program (a requirement for this program already exists in statute – the bill provides additional direction and criteria for the grant program). To be eligible for funding, the project must be included in the regional water supply plan, or, at its discretion, the Governing Board may allocate up to 20% of the

funds to projects that are not in the plan but which are consistent with the goals of the plan.

- Provides that the local water suppliers provide a minimum of 60% of the capital costs of a project. Provides that the Governing Board may partially or fully waive this match requirement for financially disadvantaged small local government per s. 403.885, F.S.

### III. Regional Water Supply Planning

The bill adds new requirements for the *water supply* development component of the WMD's regional water supply plan to make the plans more specific. Currently, this level of specificity is only included for the *water resource* development component of the plan that the WMDs are responsible for implanting. The intent is to make the plans more useful to local water suppliers in developing alternative water supplies and then to provide permitting and funding incentives to local water suppliers if they choose a project included in the plan. Specifically, the bill requires that the regional water supply plans:

- Identify water supply projects (not just source options) more than sufficient to meet the existing and future needs while sustaining the environment. For each project identified, the plan must include:
  - The quantity of water expected to be produced.
  - The timeframe the project needs to be completed and planning-level estimated capital costs of the project.
  - An analysis of the funding needs and sources.
  - Identification of the entity that should implement the project, although this is not binding – local governments retain the ability to choose any water supply project selected and are not required to select an option from the plan.
- Identify the need for multi-jurisdictional approaches to project options. The WMDs are directed to assist water utilities, special districts, and local governments in development of multi-jurisdictional approaches.
- Where the plan identifies the need for alternative water supply development, the WMDs are directed to notify the affected local governments and educate and involve the local elected officials in working towards solutions.
- Within a year of plan completion, the local governments are required to notify the WMDs of the water supply project or projects from the plan that they will implement. If one of the projects in the plan is not selected, the local government must indicate what project they will implement and how it will meet the identified water demand. The local government must provide annual status updates to the WMDs on project implementation.

- DEP, in its annual report on regional water supply planning, is required to report on the status of each of the alternative water supply projects being implemented, and other overall progress of water supply development in meeting future needs.

#### **IV. Consumptive Use Permitting**

The bill provides permitting incentives to encourage selection of alternative water supply projects included in the regional water supply plan:

- If a water supplier implements an alternative water supply project identified in the regional water supply plan, and demonstrates the ability to design, construct, operation and maintain the project, they shall be presumed to have a use consistent with the public interest.
- The permit duration for alternative water supplies shall be 20 years. The permit may be extended if a requirement for retirement of the bonds, if permit conditions for issuance will continue to be met.

#### **V. Growth Management**

The bill more closely ties WMD regional water supply planning with growth management and provides a "hard edge" to water supply concurrency requirements. Specifically, the bill:

- Requires that a local government, within 18 months of approval of an updated regional water supply plan by the WMD, amend its potable water element to include the project selected by the local government as described above.
- Requires the local government to identify water sources adequate to meet existing and projected needs and develop a work plan to ensure that facilities are built.
- Encourages the development of multi-jurisdictional facilities to meet future demand.
- Requires that adequate water supply be available before a certificate of occupancy or its equivalent is issued. Also provides that before the issuance of a building permit, the local government shall contact the water supplier to ensure that the water will be available before the anticipated date of issuance of a certificate of occupancy.
- Requires that the EAR evaluate the local government's success in identifying needed water supply projects and implementing the projects as part of the capital improvements element.

#### **VI. TMDLs**

Section 13 revises s. 403.067, F.S., regarding the development and implementation of total maximum daily load allocations for impaired surface waters. Specifically, it:

- Authorizes DEP to develop preliminary allocations of pollutant loadings and pollution reduction responsibilities at the time of TMDL development, when sufficient data for a final allocation may not be available, and a detailed allocation later during development of basin management action planning (BMAP).
- Establishes that BMAPs will include substantive provisions affecting the obligations and rights of pollution sources to reduce pollution pursuant to the TMDL and thus requires that BMAPs be adopted by Secretarial order.
- Establishes a direct lineage between the BMAP and related DEP permits and provides for chapter 120 challenges to only one of the two identical actions, either the BMAP or the permit. (Other permit requirements would be unaffected.) Also provides that BMAP management strategies shall be completed pursuant to the BMAP schedule and that such schedule may extend beyond the standard 5-year NPDES permit cycle. *(NPDES permitting requirements are not, themselves, changed as they are subject to federal law.)*
- Changes the way pollutant reductions associated with nonpoint sources of pollution identified in a BMAP are to be addressed: such sources must either implement best management practices to comply with the TMDL or demonstrate through water quality monitoring that no actions are necessary.
- Establishes that nonpoint sources that fail either to implement best management practices or demonstrate compliance with the TMDL through monitoring may be subject to enforcement.
- Provides that any entity implementing applicable management strategies specified in a BMP cannot be required to implement any other measures to reduce relevant pollutant loadings and is deemed in compliance with s. 403.067, F.S.
- Elaborates the existing process whereby DEP may verify the effectiveness of BMPs in protecting water quality.
- Clarifies the re-evaluation and modification of BMPs, where necessary, to improve effectiveness and establishes that revised BMPs must be implemented timely.
- Requires DEP to submit a report on pollutant trading before adopting rules on the subject.
- Related sections 16 and 17 are merely conforming language.

## **VII. Stormwater and Wastewater Financial Assistance**

Lastly, the bill amends s. 403.885 F.S. (the legislative water project funding process), to more closely conform to the procedures currently being used by the House, Senate, and Executive Office of the Governor to evaluate applications for funding through the legislative Community Budget Issue Requires (CBIR) process. The changes clarify the types of projects that may qualify for funding, including establishing that drinking water projects do not qualify.

The bill adds several criteria to the existing eligibility criteria in the law (protect public health, protect the environment, documented in a plan) to comport with the current review process. At least 20% of all funds made available pursuant to s. 403.885, F.S., go to small disadvantaged local governments (currently only 20% of sales tax revenues devoted to this purpose must go to such communities).