



May 15, 2009

The Honorable Charlie Crist  
Governor, State of Florida  
PL 05 Capitol  
400 South Monroe Street  
Tallahassee, FL 32399-0001

**RE: CS/CS SB 360 relating to Growth Management**

RODNEY J. LONG  
PRESIDENT  
ALACHUA

ILENE LIEBERMAN  
PRESIDENT ELECT  
BROWARD

DOUG SMITH  
FIRST VICE PRESIDENT  
MARTIN

SUSAN LATVALA  
IMMEDIATE PAST PRESIDENT  
PINELLAS

CHRISTOPHER L. HOLLEY  
EXECUTIVE DIRECTOR

Dear Governor Crist:

As a follow up to our previous meeting on May 6, 2009, I am writing to express the Florida Association of Counties' (FAC) opposition to CS/CS SB 360 and respectfully request that you exercise your discretion to not allow this legislation to become law. If implemented, this bill will have a far reaching impact on our state, affecting not only the quality of life of its citizens but also its economy, creating conditions unfavorable to new and existing businesses. As evidence of this, I ask for your favorable consideration of the following issues.

**Transportation Concurrency**

The cornerstone of Florida's Growth Management Act has been concurrency – a basic timing tool that ensures that infrastructure needed to support new growth is available simultaneously with the expansion of residential and commercial development. Since its inception, the Legislature has modified this provision to better reflect the time requirements of building certain infrastructure and the phasing characteristics of some development projects. In making these modest yet important changes, the Legislature has acknowledged the dual importance of fostering residential and commercial growth and the placement of infrastructure to support such growth.

CS/CS SB 360 drastically reverses this position by designating Transportation Concurrency Exception Areas (TCEAs) in 8 urban counties and approximately 220 cities across the state. The proposed TCEAs are not limited, nor are they established pursuant to local comprehensive plans, but are established by state law and encompass the entire urban service areas of these communities. FAC estimates that the state defined TCEAs will encompass 80 percent of the state's population.

Proponents argue TCEAs are needed to spur economic development. FAC recognizes that such an exception may provide some incentive that will spur economic activity in the short run, but would suggest as a long term policy



this position is flawed if one considers that, less than a few years ago, Florida's economy prospered without these exception areas in place. Secondly, TCEAs could be implemented more appropriately if developed and approved by the local government and incorporated within their overall growth management planning strategy.

Notably, this measure goes far beyond what the Florida Chamber of Commerce proposed to the Senate Select Committee on Florida's Economy. As presented by former House Speaker Allen Bense, the Florida Chamber recommended that the Legislature only temporarily suspend concurrency (3 years). In fact, FAC is unaware of any entity that suggested or recommended to the Legislature that transportation concurrency should be eliminated on such a broad and permanent scale.

Eliminating transportation concurrency will lead to Florida's residents and businesses actually suffering in the long run. Communities that have transportation deficiencies, poor access, and excessive commute times are ones that business rarely look to when starting new or expand existing businesses. Given the existing transportation backlog of our state – estimated between \$20 - \$30 billion – the designation of TCEAs statewide will only worsen our state's transportation network. As proposed under the bill, road capacity no longer has to be in place or even planned for development to proceed. The result, congested areas will simply become gridlocked, and the countless businesses that rely on an efficient transportation system will experience extensive delays that will have immeasurable financial impacts.

#### **Who Pays for Transportation Infrastructure**

In 2005, counties and cities began to adopt proportionate fair-share ordinances, allowing any development stopped by concurrency to proceed by paying a portion of any planned transportation improvement. The adoption of these policies has helped offset local transportation funding. Under the proposed legislation (CS/CS SB 360), such policies will be eliminated and development will no longer have the shared responsibility to provide for any traffic mitigation, whether an improvement is planned or not planned. This means that a community that has a deficient road – and no plans and no financial resources to improve that road – cannot deny a development on the grounds of concurrency.

Because these communities cannot anticipate such projects, they will be forced to react and make unscheduled improvements or simply allow the road to deteriorate further. Any such improvements will be financed by the community at large and thus forced by state law to shoulder a greater financial burden to subsidize development. While impact fees are allowed to be collected, such fees are generally used for a network of future improvements, rather than being directed to a single road being impacted. Moreover, if the fees collected over time are limited and funds are insufficient to make improvements, those fees have to be returned.

This policy is further exacerbated by the provisions dealing with the financial feasibility plans of local comprehensive plans. While financial feasibility requirements are postponed for two years (2011), transportation concurrency is effectively eliminated prospectively forever or until the Legislature reenacts it. If no action is taken by the Legislature, who will pay or contribute to the financial feasibility of local capital improvement plans? Are we suggesting that our existing residents and businesses should contribute more?

#### **Additional Requirements (More Mandates)**

In an attempt to address mobility within TCEAs, the bill mandates that counties develop and implement transportation strategies to fund mobility within two years. However, beyond this mandate, the bill provides no clarity as to how a county can meet such a requirement. Likewise, it provides no fiscal resources to ensure the effective implementation of such a requirement. In fact, the Legislature failed to address two significant strategies regarding SUN Rail and Tri-Rail. If the state land planning agency determines the requirement is not met, the county is subject to sanctions by the Administration Commission.

#### **Quality of Life**

Since the Growth Management Act (1985), communities have worked diligently to ensure their local comprehensive plans become meaningful blueprints for growth. Perhaps no other planning issue has more meaning for our citizens than ensuring that they have a safe and reliable transportation network in their community. With limited funds for transportation improvements, concurrency has been the one tool a community can use to ensure that growth and transportation are in sync. By taking this away in such large areas, the people of our state will inevitably suffer, as the bill effectively erases more than two decades of responsible planning.

#### **Development of Regional Impact**

Under the proposed legislation, the DRI program is also eliminated in these areas. While we recognize this program can often be long and cumbersome, it is the one process that ensures that a project being considered in one jurisdiction does not negatively impact another. With more than 220 cities exempted from the DRI process under the bill, we estimate that 34 counties will have no opportunity to comment on a project approved by a city that impacts the unincorporated areas of a county. Despite all of the criticism of the DRI process, one consistently acknowledged benefit is the ability of interjurisdictional (multi-community) impacts to be addressed at the front end. The current process promotes proactive, not reactive, planning. Absent this forum to address extra-jurisdictional issues in advance, the result will likely be endless challenges and lawsuits between communities impacted by the decisions of their neighbors.

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**Other Considerations**

Since the inception of this bill, the Florida Association of Counties has been consistent in expressing its concerns and opposition to its primary provisions: statewide TCEAs and the elimination of the DRI program in these areas. I would also like to add that our association was included in nearly all of the discussions relating to bill drafts in both the House and Senate, and both bill sponsors were consistent in asking for our comments and suggestions. For that, we are extremely appreciative and feel that the legislation was developed in a fair and open manner. Unfortunately, the members of our association simply disagree with how the Legislature has elected to approach growth management under the proposed legislation.

Again, I thank you for the opportunity to discuss our concerns last week and to share FAC's concerns and position on this proposed legislation. In light of the stated objections included in this letter, the FAC respectfully asks for your thoughtful attention and favorable consideration and specifically requests that you not allow CS/CS SB 360 to become law. If you have any questions or need additional information please contact me at your convenience.

Willing to Serve,

A handwritten signature in black ink, appearing to read "Rodney J. Long". The signature is stylized and cursive, with a large loop at the end.

Rodney J. Long  
Alachua County Commission  
FAC President

RJL/rb