



August 20, 2008

*Local Comp Plans Impacted*  
**Legislation Links  
Climate Change  
to Growth  
Management**

*New 2008 legislation on climate change, signed by Governor Charlie Crist, directs each local government to add new elements to local comprehensive plans. This issue of Capitol Report details those new requirements.*



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**N**ew legislation on climate change signed by Governor Crist on June 16, 2008, directs each local government to add the following to its comprehensive plan:

- The Future Land Use Element must 1) discourage urban sprawl, 2) incorporate energy-efficient development patterns accounting for existing and future electric power generation and transmission systems, and 3) incorporate green-house gas reduction strategies.

- The Traffic Circulation Element must incorporate transportation strategies to address reduction in greenhouse gas emissions from transportation.
- The Conservation Element must include factors affecting energy conservation.
- The Housing Element must incorporate energy efficiency in the design and construction of new housing.

These requirements became effective July 1, 2008 under House Bill 697, now referred to as Chapter 2008-191, Laws of Florida.

The Department of Community Affairs (DCA) representatives have stated they intend to enter into rule-making to provide further guidance on how to address these new requirements. Carlton Fields will monitor the progress the DCA makes in rule-making for climate change issues.

However, in presentations since the bill was passed, DCA representatives have provided hints on how to address these new requirements. "Smart Growth" principles that create more compact, mixed-use development will remain the development pattern of choice, rather than sprawling single-use development. Also, the new requirements encourage the use of other modes of transportation in order to reduce the reliance on the automobile. Strategies that reduce vehicle miles traveled, or VMT, and mobility fees are being considered.

Many of us are well versed in the issues typically faced in growth management such as compatibility, suitability, need, and provision of adequate public facilities. We are also becoming more experienced in the newer issues of school facility planning and water supply plans. However, the introduction of climate change raises new questions and the need for a new level of expertise for growth management. Some general questions being raised are:

- What baseline will be applied to demonstrate reductions?
- Are reductions to be measured at a community or project level or both?
- If measured at a project level, do you compare the proposed level of development against the maximum development potential?
- Will any mitigation be acceptable and if so, what kind?

We hope to see these questions answered during rule-making. In the interim, here is what these changes may mean for clients:

- 1) Any project for transmittal to DCA after July 1, 2008, needs to consider whether the project includes use of anti-urban sprawl strategies such as mixed-use, compact development patterns as well as how to encourage other modes of transportation.
- 2) For a controversial project, clients may be faced with a challenge based upon climate change issues and whether your project actually reduces emissions.
- 3) This may require clients to add someone to their project team that can address climate change issues to support the client's amendment.
- 4) If working with a smaller local government or one with a limited planning staff, clients may have to draft the requirements on their behalf, especially if the client is proposing a large map amendment for the area.

### **Existing State Requirements Generally Not Addressed**

According to the DCA, many local governments have not yet met existing planning requirements much less these new requirements. The three major deficiencies are 1) School Concurrency, 2) Water Supply Planning and, 3) Capital Improvements Schedule updates. According to the DCA's statistics:

- For school concurrency, 344 of the required local governments have not adopted these amendments.
- For water supply planning, only 22 of the 190 required local governments have been found in compliance.

- For Capital Improvements Schedule updates, only 60 local governments have updated their comprehensive plans and have been found to meet the financially feasible standard.

Many of these local governments are facing new objections when amending their comprehensive plan or even a prohibition from certain plan amendments. By December 1, 2008, all local governments are required to have a financially feasible comprehensive plan and update the capital improvements schedule annually. Failure to do so will result in a prohibition from amending the future land use map.

These factors make it extremely important to understand the status of the local government comprehensive plan in the communities you are working in. This may also require that you assist the local government in addressing these new requirements before your project can move forward.

### Closing Information

Carlton Fields will continue to follow all of these growth management issues. If you have any questions or need our assistance feel free to call us. Also, visit our website at [www.carltonfields.com](http://www.carltonfields.com) to view the June 25, 2008, *Carlton Fields Capitol Report* that outlines all of the energy and climate change issues passed in the 2008 Legislative Session. ■

*(House photo from page 1 by Mark Foley)  
2008 House Environmental and Natural Resources Chairman Stan Mayfield, R-Vero Beach, takes questions on the sweeping energy policy bill, debated and later approved during the final days of the 2008 Florida Legislature.*



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*Darrin has extensive experience in community based planning and working with citizens to identify solutions to planning issues; and he has been deemed an expert witness in the areas of comprehensive planning and land use planning.*

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### Florida Political and Legislative Dates

- Tuesday, August 26, 2008:  
*Primary Election*
- Tuesday, November 4, 2008:  
*General Election*
- Tuesday, November 18, 2008:  
*2009-10 Florida Legislature  
Organizational Session  
(and thereafter a potential Special  
Session on Current Year Budget)*
- December 2008 (TBA):  
*Legislative Committee Meetings*
- January 2009 (TBA):  
*Legislative Committee Meetings*
- February 2009 (TBA):  
*Legislature Committee Meetings*
- March 3, 2009:  
*First Day of 2009 Florida Legislative  
Session*
- May 1, 2009:  
*Last day of the 2009 Florida Legislative  
Session, if the Legislature completes work  
in 60 days.*