



February 14, 2014

The Honorable Jimmy Patronis
Florida House of Representatives
455 Harrison Avenue
Suite A
Panama City, Florida 32401

Dear Representative Patronis,

The Florida Conservation Coalition, which represents over 50 environmental organizations from around the state, has reviewed your recently filed bill (HB 703) which deals with nine separate and important provisions of Florida statutes. We appreciate the opportunity to write to you and hope you will find that some of our concerns might be resolved. As it is currently drafted, the Coalition will have to oppose the bill.

In 2011, the Florida Legislature reaffirmed home rule as part of the Community Development Act, but otherwise decimated growth management legislation in Florida. This bill is an attempt to reduce even that authority by limiting local government's rights to conduct their land-use business, or by telling them what they can or cannot do in rather specific circumstances.

Additionally, as the scramble for scarce water continues, many entities are attempting to circumnavigate the careful review required for new and/or renewed consumptive use permits, effectively privatizing the water resources of our state. Those provisions have found their way into this bill.

If unamended, the FCC will oppose this bill in its entirety for the reasons stated above. However, we are providing you with comments on several sections which might further more specific discussion.

Section 1. This provision retroactively prohibits the enforcement of local government regulations, rules or ordinances which protect wetlands, springs or stormwater and were modified, adopted, readopted or amended on or after July 1, 2003. The FCC specifically opposes this provision as it reduces the protection of water resources and attempts to negate efforts by specific local governments to protect these resources. Martin County, for example, has been under attack for its land development regulations for years, but has fought on locally to continue these protections. It is clear that certain interests are attempting to impose their position at the legislative and state level. For Martin County, as an example, this would mean that environmental ordinances adopted over 30 years ago, but readopted in

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2009 (as was their entire Comprehensive Plan) would become null and void.

Section 2. This section would preempt the authority of local government to decide how voting is to be conducted when considering comprehensive plans and/or plan amendments. Most local governments use a majority vote, but others have chosen a higher standard, a super-majority, especially when particularly important local policy issues are involved. This is an important and significant local government issue, and should not be a legislative matter. The FCC specifically opposes this amendment, since the particular local governments that use a super-majority are simply seeking the option to protect more stringent environmental policies. We recognize that this might not always be the case, but a supermajority does assist in maintaining sustained local policy which provides predictability and certainty to those who are regulated and to the local citizens.

Section 3. Section 3 is another attempt to limit home rule. This section prohibits a local government from rescinding a comprehensive plan amendment that allows for more intensive land uses on existing agriculture lands, regardless of whether or not the conditions agreed to by the land owner in order to receive the land use change are met. In addition, it interferes with a local government's ability to coordinate the timing of land use changes with the important Capital Facilities Element of a comprehensive plan so necessary infrastructure can be appropriately considered and provided.

The paragraph (8) subsection, which we would also oppose, allows certain DRI's (just as if they were a political entity or utility) the right to 30 year consumptive use permits, once again tying the water management districts' hands for equitably distributing water.

Sections 6 and 7. This provision would specifically allow "insurance" to meet any financial responsibility requirements for mitigation banks. The legislature continues its efforts to help the mitigation banking industry, although there is significant controversy surrounding the efficacy of granted credits and evaluation of success. The term "insurance" is meaningless. It is without any guidance and is rarely as secure as a bond or pledged assets. The FCC opposes this provision.

Section 8. This provision would extend the water supply "lock in" aspects of sector plans to agricultural supply for both sector plans and DRIs and eliminate currently required analyses from water supply planning. Neither the sector plan section, nor the DRI section, requires the same level of analysis to aid in water supply planning as currently required of everyone else. For example, no BEBR population analysis would be required (the implication here is that water would be "reserved" in the plans for build out), and analyses by the WMD relating to deciding which projects should be on their water supply list and to determine funding needs and sources would be eliminated along with analysis of the need for a variance, including phosphate mining related variances. Of course, the primary FCC objection is that sector plans and DRI's would become independent and separate entities, grandfathered into water supply plans without further analysis. This hardly helps in flexible water management over time and virtually privatizes water to these owners.

We do want to comment in passing on Section 9 as it is a futile and litigious dead end for the State of Florida to try to exempt itself from the Federal Clean Air Act.

Read together, the proposed changes to the local government planning laws and water management planning and regulatory laws paint the picture that the legislature is seeking to foster large scale rural land development despite the responsibility of local government to determine land use and the statewide need for adequate water supply for all the citizens and economic interests in the State of Florida. The proposed sections would move us closer to privatizing water supply in the state just as we understand that the water supply is dangerously tight and in need of proper and fair distribution.

Once again, we appreciate this opportunity to give you early comments on to HB 703. We would hope that this will help you reconsider this approach to amending Florida's diverse and complex statutes and would, of course, be glad to meet with you to further discuss the proposed legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Graham", with a stylized flourish at the end.

Senator Bob Graham
The Florida Conservation Coalition

Note: This letter represents the views of the Coalition as a group. Individual organizations may submit their own comments independently.