

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 791 Development Permits and Orders
SPONSOR(S): Commerce Committee, Overdorf, and Esposito
TIED BILLS: IDEN./SIM. **BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local Administration, Federal Affairs & Special Districts Subcommittee	14 Y, 0 N	Mwakyanjala	Darden
2) Commerce Committee	16 Y, 0 N, As CS	Larkin	Hamon
3) State Affairs Committee		Mwakyanjala	Williamson

SUMMARY ANALYSIS

The Community Planning Act provides counties and municipalities with the power to plan for future development by adopting comprehensive plans. Each county and municipality must maintain a comprehensive plan to guide future development.

A development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit. Counties and municipalities must approve, approve with conditions, or deny applications with a development order within timeframes established by statute.

The bill revises procedures for counties and municipalities to issue development permits and orders by requiring counties and municipalities to:

- Specify in writing the minimum information that must be submitted in certain development applications.
- Confirm receipt of an application within five business days.
- Issue a refund of application fees if certain deadlines are not met.

The bill provides that timeframes for processing an application for a development permit or order restart if the applicant makes a substantive change. The bill requires any extension of deadlines for processing an application for a development permit or order be in writing. A county or municipality is not required to issue a refund of application fees if the parties have agreed to an extension of time, the delay in meeting the deadline is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstance.

The bill does not appear to have a fiscal impact on state government, but may have an indeterminate negative fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Comprehensive Planning

The Community Planning Act¹ provides counties and municipalities with the power to plan for future development by adopting comprehensive plans.² Each county and municipality must maintain a comprehensive plan to guide future development and growth.³

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.⁴ A comprehensive plan is intended to provide for the future use of land, which contemplates a gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

A locality's comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. A comprehensive plan is made up of 10 required elements, each laying out regulations for a different facet of development.⁵ Local governments may also include optional elements in their comprehensive plan. The 10 required elements are:

- Capital improvements.
- Future land use plan.
- Transportation.
- General sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge.
- Conservation.
- Recreation and open space.
- Housing.
- Coastal management.
- Intergovernmental coordination.
- Property rights.⁶

Development Permits and Orders

Under the Community Planning Act, a development permit is any official action of a local government permitting the development of land.⁷ Development plans include, but are not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances. A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.⁸

Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient.⁹ If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.

¹ Ch. 163, part II, F.S.

² S. 163.3167(1), F.S.

³ S. 163.3167(2), F.S.

⁴ S. 163.3194(1)(a), F.S.

⁵ S. 163.3177(6), F.S.

⁶ *Id.*

⁷ S. 163.3164(16), F.S.

⁸ See ss. 125.022, 163.3164(15), and 166.033, F.S.

⁹ Ss. 125.022(1) and 166.033(1), F.S.

Within 120 days after the county or municipality has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order.¹⁰ Both the applicant and the local government may agree to an extension of time, particularly in the event of a force majeure or other extraordinary circumstance. An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's decision. These timeframes do not apply in an area of critical state concern.

When reviewing an application for a development permit or development order, not including building permit applications, a county or municipality may not request additional information from the applicant more than three times, unless the applicant waives the limitation in writing.¹¹

If a county or municipality makes a request for additional information from the applicant and the applicant provides the information within 30 days of receiving the request, the county or the municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 30 days of receiving the information, if the request is the county's or municipality's first request.¹²
- Review the additional information and issue a letter to the applicant indicating that the application is complete or specify the remaining deficiencies within 10 days of receiving the additional information, if the request is the county's or municipality's second request.¹³
- Deem the application complete within 10 days of receiving the additional information or proceed to process the application for approval or denial unless the applicant waived the county's or municipality's time limitations in writing, if the request is the county's or municipality's third request.¹⁴

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant can request the county or municipality proceed to process the application for approval or denial.¹⁵

If a development permit or order is denied, the county or municipality must give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.¹⁶

Effect of Proposed Changes

The bill requires counties and municipalities to specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. A municipality or county must make the minimum information available for inspection and copying at the location where the local government receives applications for development permits and orders, and provide the information to the applicant at a pre-application meeting or post the information on the local government's website.

The bill requires counties and municipalities to confirm receipt of the application for a development permit or order within five business days of receipt using contact information provided by the applicant. Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a written notice

¹⁰ *Id.*

¹¹ Ss. 125.022(2)(a) and 166.033(2)(a), F.S.

¹² Ss. 25.022(2)(b) and 166.033(2)(b), F.S.

¹³ Ss. 125.022(2)(c) and 166.033(2)(c), F.S.

¹⁴ Ss. 125.022(2)(d) and 166.033(2)(d), F.S.

¹⁵ Ss. 125.022(2)(e) and 166.033(2)(e), F.S.

¹⁶ Ss. 125.022(3) and 166.033(3), F.S.

to the applicant indicating that all required information is submitted or specify any areas that are deficient.

The bill clarifies that counties and municipalities must approve, approve with conditions, or deny an application within 120 days when an application does not require final action through a quasi-judicial hearing or a public hearing.

The bill requires any extensions in time agreed upon by an applicant and a county or municipality to be in writing.

The bill specifies that all timeframes related to issuing development permits and orders restart if an applicant makes a “substantive change” to the application, defined as an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel.

The bill requires a county or municipality to issue a refund to an applicant equal to:

- 10 percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.
- 10 percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information upon an initial request.
- 20 percent of the application fee if the county fails to issue written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information upon a second request.
- 50 percent of the application fee if the county fails to approve, approve with conditions, or deny the application within 30 days after conclusion of the 120-day or 180-day application completion timeline.
- 100 percent of the application fee if the county fails to approve, approve with conditions, or deny an application 31 days or more after conclusion of the 120-day or 180-day application completion timeline.

A county or municipality is not required to issue a refund if the county or municipality agreed to an extension of time, the delay is caused by the applicant, or the delay is attributable to a force majeure or other extraordinary circumstance.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.022, F.S., relating to county development permits and orders.

Section 2: Amends s. 166.033, F.S., relating to municipal development permits and orders.

Section 3: Provides an effective date of October 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminately negative fiscal impact on local governments to the extent those governments must issue refunds for failure to meet statutory deadlines for development order issuance.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminately positive fiscal impact to the extent applicants who receive refunds from counties and municipalities that fail to meet statutory deadlines for development order issuance.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2024, the Commerce Committee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute defines “substantive change” in applicable sections for development permits and orders and removes the definition of “substantive change” in the Community Planning Act.

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