Tindale-Oliver & Associates, Inc.
Planning and Engineering
Celebrating 20 Years 1989 - 2009

# Corporate Notes
# SB 360 Transportation Issues

## Summary

Senate Bill 360 (SB 360), named the Community Renewal Act, was signed into law on June 1, 2009. The purpose of SB 360 is to direct growth into dense urban areas by removing State-mandated concurrency requirements within those areas. The Bill automatically designates many cities, the urban service areas of some counties, and some entire counties as Transportation Concurrency Exception Areas (TCEAs). Within these TCEAs, the Bill makes it clear that concurrency is to be determined by local officials. The Bill removes State-mandated concurrency for such areas; however, local comprehensive plans and land development regulations implementing transportation concurrency for those areas will stay in effect unless modified. Therefore, it becomes important for local governments of areas that are designated as TCEAs to understand the importance and value of a good transportation system and to establish a clear mobility plan that addresses multi-modal facilities, services, and financing (line 526). With this renewed emphasis on growth management, local governments have the opportunity to craft local TCEA regulations that promote *local* growth objectives.

## Key Points

- By July 1 of each year, the Office of Economic and Demographic Research (OEDR) must publish and transmit to the Department of Community Affairs (DCA) a list of jurisdictions that meet the definition of a Dense Urban Land Area (DULA) (line 244). A DULA is a city or county with a population density of 1,000 persons per square mile or more and (for cities) a total population greater than 5,000 (line 235). In addition, a county with a total population of at least 1,000,000 is a DULA. No guidelines on how to compute the density are provided — such as whether or not to deduct wetlands or preservation areas — other than to indicate that incorporated areas are to be included in the county-wide computation.

- A "financially feasible" Comprehensive Plan is still required, but demonstration of financial feasibility is deferred to 2013 (line 287). Financial feasibility is also effectively re-defined within TCEAs (line 303). TCEAs are *always* considered to be financially feasible. This is a key provision that has not been widely discussed, but that could relate to the scope and nature of the required TCEA mobility plan. Reduced State concern over maintenance of a level of service standard within TCEAs could result in a diminished emphasis on the funding of transportation services and facilities within TCEAs.

- SB 360 "automatically" creates TCEAs for entire cities that have an average population density greater than 1,000 persons/square mile and a total population greater than 5,000; urban service areas of counties with officially adopted urban service areas that meet the 1,000 persons per square mile criterion, and entire counties that meet the DULA criteria and have a population of 900,000 or more (line 498). Other counties and cities wishing to take advantage of the opportunities offered by TCEAs may designate sub-areas of their jurisdictions

as TCEAs by meeting previously-established density and development requirements for the "traditional" purposes of infill and redevelopment.

- Within two years after the area becomes a TCEA (e.g. July 2011), all local governments with TCEAs created by SB 360 must develop a plan (land use and *multi-modal* transportation strategies) to "support and fund mobility" within the exception area (line 526). No guidelines are provided regarding what constitutes an acceptable mobility plan, so, presumably, it can be tailored to any strategy a community chooses to pursue. Existing statutory sanctions can be imposed for failure to develop and adopt the plan.

- If a county creates an urban service area boundary and a TCEA comprises more than 40 percent of the urban service area, then they must beware of the additional requirements of 163.3180 (e) (line 616). (DCA has acknowledged that this section was written as an exception for a specific county. Unintended consequences may result in other counties that were not considered when attention was focused on the requesting county.)

- TCEAs are no longer required to coordinate mitigation of impacts to the Strategic Intermodal System (line 621).

- Home rule is preserved (line 638). This is important to local governments because it presumably allows them to implement concurrency-like development review processes.

- Zoning petitions can be considered before Comprehensive Plan amendments allowing such zoning, contingent on the supporting Comprehensive Plan Amendment being approved (line 847).

- A local government can grant concurrency exceptions for development proposals that are qualified by the Office of Tourism, Trade, and Economic Development (OTTED) as "job creation projects" (line 664).

- Development of Regional Impact (DRI) analyses are not required in TCEAs (line 1145); however, DRIs would presumably still be reviewed under the "usual" concurrency provisions of any local jurisdiction. (Thus, if the local land development regulations indicate that DRI-scale developments must follow DRI review procedures, they would still submit a DRI application.)

- DRIs continue to abide by their Development Order, but a developer can ask the local government to rescind the DO pursuant to 380.115 F.S. Local governments must send to the DCA a copy of their orders granting development approval for what would otherwise have been DRIs. Presumably, the DRI would still be subject to the transportation mitigation requirements of the local comprehensive plan and land development regulations (line 1192).

- The "State" is mandated to "evaluate and consider" a mobility fee concept "to replace the existing transportation concurrency system." The fee is to "promote compact, mixed-use, and energy-efficient development." One aspect of the consideration is to address the distribution of collections "fairly" to agencies responsible for maintaining impacted roadways. The USF Center for Urban Transportation Research (CUTR) is undertaking this assignment for the DCA and its report is due by December 1, 2009 (line 1230).

- Development Orders and other permits are extended by two years (line 1251).

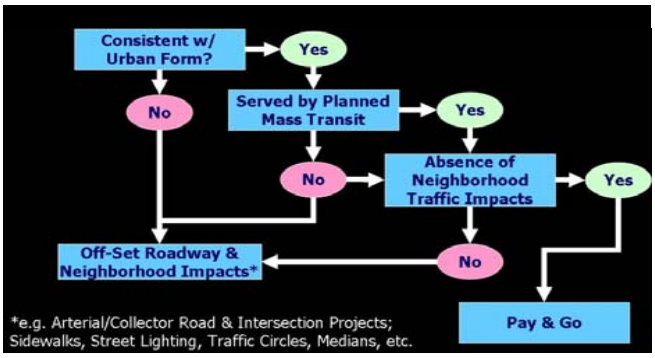
# How does SB 360 affect current development review processes?

Outside of TCEAs nothing has changed at this time. The potential for a mobility fee may have implications for "traditional" concurrency outside of TCEAs.

Within TCEAs, the initiative to maintain development review and approval processes that address transportation impacts will be with the local government. There is now no State law requiring traffic to be a concurrency issue *within* TCEAs.

Within TCEAs, the Florida DOT will review DRIs if local ordinances or inter-local coordination agreements require such review. The DCA has also indicated that their review of the short-term (five-year future) "impacts" of land use plan amendments will no longer include a concurrency-style assessment of the availability of transportation infrastructure. Other provisions of the Florida Administrative Code require that the land use and transportation elements of a local government comprehensive plan remain "coordinated," so a review role remains for the Florida DOT in comprehensive plan amendment applications.

*For the past year, TOA has been helping the City of Tampa reconsider its city-wide TCEA. Tampa has had a city-wide TCEA for the past decade and has encountered criticism resulting from this policy. Working with the City, four districts with different urban form characteristics were identified. Varying transportation mitigation policies that align with the City's Comprehensive Plan urban development goals were developed. Mobility strategies were tailored to each district and regulatory strategies and financial plans were developed to address the City's mobility program.*




***Based on the character and location of development with respect to the city's urban form goals and mobility plan, development projects move through clear decision points to either a pay-and-go solution or more***

Agencies with either established TCEAs or new TCEAs should be sure they have a well-defined mobility plan that can be financed.

Agencies wishing to take advantage of the opportunities that TCEAs can offer may still pursue a TCEA for sub-areas within their jurisdiction.

Local governments with either existing or newly-created TCEAs need to understand that considerable latitude exists within TCEAs to manage growth and encourage development in desired forms at desired locations.

Within two years, policies and land development codes need to be crafted for new TCEAs or overhauled for existing TCEAs to achieve desired goals. Few communities have a financially feasible mobility plan -- the currently-adopted level of service standards cannot be achieved and maintained. Comprehensive plan policies and land development regulations need to be modified to provide a growth management philosophy that is responsive to community goals.

**Tindale-Oliver & Associates, Inc.**
**1000 N. Ashley Drive**
**Suite 100**
**Tampa, FL 33602-3059**

PRSRT STD
U S POSTAGE
PAID
TAMPA FL
PERMIT NO 778

Return Service Requested

*Transportation | Growth Management | Infrastructure Finance*

## Office Locations

**Tampa**
1000 N. Ashley Drive
Suite 100
Tampa, FL 33602
Phone: (813) 224-8862

**Orlando**
1595 S. Semoran Blvd.
Building 7, Suite 1540
Winter Park, FL 32792
Phone: (407) 657-9210

**Bartow**
545 N. Broadway Ave.
Bartow, FL 33830
Phone: (863) 533-8454