

## CHAPTER 2012-245

### Committee Substitute for House Bill No. 869

An act relating to the Pinellas Planning Council, Pinellas County; codifying, amending, reenacting, and repealing special acts relating to the district; reorganizing the council; setting forth the purpose of the council; providing legislative intent that the countywide plan be broadly defined and policy-based; providing that the primary focus of the council will be land use and transportation planning; providing definitions; providing that the membership of the council shall be the same as that of the Pinellas County Metropolitan Planning Organization; providing for the election of officers, meetings of the council, requirements of a quorum, and member expenses; providing for the powers and duties of the council, including revising the required components of the countywide plan, consistent with the stated legislative intent; providing for countywide staff and committees; providing for a budget and annual independent audit; recognizing the countywide planning authority of the Pinellas County Board of County Commissioners as provided by the Pinellas County Charter; providing for the repeal of the existing countywide plan, adoption of a new countywide plan, future amendment of the plan, and standards and procedures for such actions; providing a timetable for consistency review after adoption of a new countywide plan; providing for public hearing and notice requirements; requiring the authority to adopt specific notice standards in the countywide rules; providing for compliance with part II of chapter 163, Florida Statutes; repealing chapters 73-594, 74-584, 74-586, 76-473, 88-464, and 90-396, Laws of Florida; providing an effective date.

WHEREAS, Pinellas County is approaching a built-out condition, and planned redevelopment of the built environment is critical to maintaining and improving the countywide economy and quality of life, and

WHEREAS, given the land constraints within the county, it is recognized that countywide traffic issues cannot be solved by road building alone but must be addressed through a multimodal transportation system, and

WHEREAS, with the Legislature's creation of the Tampa Bay Area Regional Transportation Authority ("TBARTA") in 2007, the provision of enhanced public transit within the county has become a high transportation planning priority, and

WHEREAS, land use patterns are a critical factor in determining whether multimodal transportation, particularly transit, is functional and effective, and

WHEREAS, transportation and land use planning do not exist independently but have a relationship in which each influences the other, and

WHEREAS, both the Updated Countywide Plan for Pinellas County and Pinellas by Design: An Economic Development and Redevelopment Plan for

the Pinellas Community contain planning strategies that call for increased coordination of the land use and transportation planning activities of the Pinellas Planning Council (“PPC”) and the Metropolitan Planning Organization (“MPO”), and

WHEREAS, a Joint Land Use and Transportation Committee (“committee”), consisting of three representatives from the PPC, three representatives from the Board of County Commissioners (BCC), and three representatives from the MPO, was convened in April 2010 to study the potential of integrating transportation and future land use planning at the countywide level, and

WHEREAS, the committee has recommended that the MPO and PPC functions be more closely aligned on transportation and land use issues to create a more streamlined and integrated process, which should identify and eliminate any redundancies, disconnects, or inefficiencies in the current system, and

WHEREAS, the committee recommended that this integrated process include a new Countywide Future Land Use Plan, which establishes a broad, forward-looking land use planning framework, incorporates and guides multimodal transportation planning, and allows sufficient flexibility to accommodate the redevelopment needs of local communities, and

WHEREAS, the committee determined that the most effective way to accomplish these goals would be to unify the membership of the boards of the MPO and the PPC into a single board that would be empowered to carry out the functions of both the MPO and the PPC, and

WHEREAS, it is the recommendation of the committee that the new unified board should continue to consist of elected officials and ensure adequate representation for all local governments within Pinellas County, recognizing that the Pinellas Suncoast Transportation Authority (“PSTA”) will also have a seat on the new board, and

WHEREAS, it was the consensus of the committee that the new unified board be supported by an independent executive director who serves in that capacity exclusively, with staff chosen by that independent director, but with priority given to current employees of the PPC and MPO, and

WHEREAS, the establishment of the new unified board will require reapportionment of the MPO membership, which must be done in conformance with section 339.175, Florida Statutes, and

WHEREAS, the establishment of the new unified board will require an amendment to and reenactment of the PPC’s charter, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The reenactment of existing law in this act shall not be construed as a grant of additional authority to or supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of the district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law in this act shall be construed to affect the ability of the district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 2. Chapters 73-594, 74-584, 74-586, 76-473, 88-464, and 90-396, Laws of Florida, are amended, codified, reenacted, and repealed as provided in this act.

Section 3. The charter for the Pinellas Planning Council, Pinellas County, a dependent special district, is re-created and reenacted to read:

Section 1. County planning council created.—There is created a county-wide planning and coordinating council to be known as the “Pinellas Planning Council,” hereinafter referred to as the “council.” The council shall have common membership and function as a single, unified board with the Pinellas County Metropolitan Planning Organization (“MPO”).

Section 2. Purpose of council; legislative intent.—

(1) The Legislature recognizes the social and economic interdependence of the people residing within Pinellas County and the common interest they share in its future development. The Legislature recognizes the value of considering land use and transportation planning issues concurrently and of coordinating and implementing land use and transportation planning functions in an integrated manner. The Legislature also recognizes that individual plans and decisions heretofore made by local governments within the county have affected the welfare of the entire county as well as neighboring jurisdictions, and, therefore, the Legislature intends that the purpose of this act is to provide for:

(a) The formulation and execution by the council of the strategies necessary for the orderly growth, development, and environmental protection of Pinellas County as a whole, with the focus on those issues deemed to have an impact countywide.

(b) The coordination by the council of planning and development in Pinellas County with regional planning objectives in the Tampa Bay area as developed by such entities as the MPO, the Tampa Bay Regional Planning Council, the Tampa Bay Area Regional Transportation Authority (“TBART”), the Pinellas Suncoast Transit Authority (“PSTA”), the Department of Transportation (“DOT”), and the Department of Economic Opportunity (“DEO”).

(2) The Legislature further recognizes that the future of Pinellas County, its permanent residents, and the millions of tourists who annually visit the county is dependent upon the way the natural resources of land, air, and water are protected and impacted by the built environment and through the use and reuse of land to accommodate the urban development and redevelopment pattern, the transportation system that serves it, and other development activities that are guided by the countywide planning function.

(3) The Legislature intends for the development of a broadly defined, policy-based countywide plan that will focus on countywide issues related to future land use, transportation, and intergovernmental coordination.

(4) The Legislature further intends that this act provide for the coordination by the council of the transportation planning functions undertaken by the MPO with the council's land use planning functions, as expressed in this act, in a manner that more fully integrates these two functions in a complementary manner, as well as a means for the integration of the membership of the boards of the council and MPO, such that a single, unified board shall perform the functions of both the council and the MPO.

Section 3. Definitions.—As used in this act, the term:

(1) “Countywide plan” means materials in such descriptive form, written or graphic, as may be appropriate to the prescription of strategies for the orderly and balanced future development of Pinellas County. The countywide plan is comprised of the countywide plan strategies, the countywide plan map, and the countywide rules in section 6(7).

(2) “Countywide plan map” means the future land use map that designates general categories of land use by type and location to guide the future development pattern and use of land throughout the county.

(3) “Countywide plan strategies” means an overarching set of policies that identify and set forth a plan of action to address those components set forth in section 6(7) and that are collectively used to administer and guide interpretation of the countywide plan map and countywide rules.

(4) “Countywide planning authority” means the board of county commissioners, acting in its capacity as the countywide planning authority, through the exercise of its power under section 2.04(s) of the Pinellas County Charter.

(5) “Countywide rules” and the “rules” mean those rules, standards, and procedures that will implement the countywide plan as provided in section 6(7).

(6) “Existing countywide plan” means that countywide plan, inclusive of the countywide plan strategies, countywide plan map, and countywide rules as adopted by Pinellas County Ordinance 89-4, as amended.

(7) “Land development regulation” means an ordinance enacted by a local government for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, or building construction regulation or any other regulation controlling the development of land.

(8) “Local government” means Pinellas County or any municipality within the county.

Section 4. Membership of council.—The council shall be composed of the voting membership of the Pinellas County Metropolitan Planning Organization. The terms of office and appointments to fill vacancies shall be consistent with Florida law governing the MPO.

Section 5. Officers; meetings; records; quorum; expenses.—

(1) The council shall elect one of its members as chairperson, one of its members as vice chairperson, one of its members as treasurer, and one of its members as secretary, each of whom shall serve for the year or until a successor is elected. No person elected chairperson shall serve more than 2 consecutive years in that capacity. Election of officers shall be conducted in concert with the MPO, as provided by Florida law governing the MPO.

(2) The council may meet at least once each month, at such place and at such other times in special session as the council, by a majority vote, shall determine, and at any other time at the call of the chairperson. The council shall adopt, by an affirmative vote of a majority of the voting members of the council, operating procedures for the transaction of business and keep a record of its transactions, resolutions, findings, determinations, recommendations, and orders, which record shall be a public record. Subsequent amendment of the operating procedures shall be by an affirmative vote of a majority of the members present and constituting a quorum.

(3) At all meetings of the council, a quorum shall consist of a simple majority of the full voting membership. No official business of the council may be transacted unless a quorum is present. No vacancy in the council shall impair the right of a quorum of the council to exercise all the rights and perform all the duties of the council. Except as otherwise provided in this act, all actions of the council shall be by a majority vote of those members present.

(4) Members of the council shall be entitled to receive from the council their traveling and other necessary expenses incurred in connection with the business of the council, as provided by law, but they shall draw no salaries or other compensation.

Section 6. Powers and duties.—In the performance of its duties and in the execution of its functions under this act, the council has and shall exercise the following powers and duties:

(1) To maintain a permanent office at the place or places within Pinellas County as it may designate. Additional suboffices may be maintained at such place or places within Pinellas County as it may designate.

(2) To employ and to compensate such personnel, consultants, and technical and professional assistance as it may deem necessary.

(3) To make and enter into contracts and agreements.

(4) To hold public hearings and sponsor public forums.

(5) To sue and to be sued in its own name.

(6) To contract with, accept and expend funds and grants from, and accept and use services from:

(a) The Federal Government or any agency thereof.

(b) The state government or any agency thereof.

(c) The county government or any agency thereof, including the district school board.

(d) The several municipalities in Pinellas County or any agencies thereof.

(e) The Tampa Bay Regional Planning Council and other governmental agencies.

(f) Civic groups and nonprofit agencies.

(7) To develop for countywide planning authority approval a countywide plan that shall be broadly defined, policy-based, and focused on countywide issues and that shall include:

(a) The countywide plan map.

(b) The countywide rules, which shall establish parameters that will be used to determine whether local governments' future land use plans and land development regulations are consistent with the countywide plan map and rules. Each land use category shall, at a minimum, be defined in terms of the types of uses included and specific standards for the density or intensity of use.

(c) The countywide plan strategies, which shall provide policy guidance for the countywide plan map and rules and which shall include:

1. A countywide future land use component that supports a countywide managed growth perspective.

2. A countywide transportation component that supports mass transit and other transportation facilities and that recognizes the responsibilities of the MPO as defined by law and joint agreement.

3. A countywide intergovernmental coordination component that supports enhanced integration of local government land use and transportation planning.

4. Any other component determined by the council and the countywide planning authority to be necessary to establish effective countywide planning in furtherance of the intent of this act.

(8) To coordinate countywide growth management issues and procedures consistent with this act.

(9) To review the countywide plan with the local governments in order to ensure coordination with local goals and policies, identify specific countywide growth management problem areas, and work collaboratively with local governments towards solutions to those identified problems.

(10) When processing amendments to the countywide plan map, to consider the countywide plan strategies and the countywide rules.

(11) To conduct a strategic planning session with the countywide planning authority on an annual basis or at such other intervals as the council and countywide planning authority shall agree upon.

Section 7. Countywide staff and committees.—

(1) Pursuant to section 6(2), the council shall appoint an independent executive director, who shall serve at the pleasure of the council. The employment qualifications and standards for the position of executive director shall be established by the council. The executive director may employ such other staff as may be needed and shall have the sole authority to manage the activities of the staff. Nothing in this act shall prevent the executive director and the staff from being classified or exempt employees of the Pinellas County Unified Personnel System.

(2) Directors of individual local government land use and planning departments, or their designees, are the members of the planners advisory committee. The planners advisory committee may, at the direction of the council, perform a professional planning review of the council staff recommendations that are to be acted upon by the council. The planners advisory committee may also include a representative from the planning departments maintained by the Pinellas County School Board, the PSTA, the DOT, and other agencies as the council may determine appropriate. In addition to the planners advisory committee, the council may appoint such other committees as it deems necessary, which may be comprised of either elected or nonelected officials. The committees provided for in this section may perform such other duties as assigned by the council but may not be involved in the administration or executive functions of the council.

(3) The staff, as recognized in this act, shall prepare all plans or other documents that the council may direct under this act and shall assist any committee and the executive director in day-to-day activities. The staff shall be governed by such operating procedures as may be set forth by the council.

Section 8. Budget, fiscal year, appropriations, contributions; annual audits and reports.—

(1) The executive director of the council shall annually prepare the budget of the council. The budget shall be kept within the limit of funds annually available to the council, and each item in the budget shall be fully explained. The council shall approve and adopt the annual millage rate and budget, and all deliberations on the millage rate and budget by the council shall be done at meetings open to the public. The fiscal year of the council shall be the same as the fiscal year of the Board of County Commissioners of Pinellas County. Notwithstanding the above, the Board of County Commissioners of Pinellas County shall have the right to review the millage rate and budget, raising or reducing either as it deems necessary. In its review of the millage rate and budget, the board of county commissioners shall ensure that the council is funded, at a minimum, at a level that supports the council's powers and duties set forth in section 6.

(2) The Tax Collector of Pinellas County shall remit directly to the council, from the total taxes collected from the millage certified by the Board of County Commissioners of Pinellas County for county purposes, an amount equal to the annual budget but not to exceed one-sixth of a mill on each dollar of the assessed valuation of taxable property made annually by the Property Appraiser of Pinellas County. The funds collected pursuant to this subsection shall only be expended for council purposes.

(3) The council shall cause an annual independent audit to be performed, to be paid for by the council. The council shall also prepare an annual report on its activities as a whole.

Section 9. Countywide planning authority of the board of county commissioners.—The Board of County Commissioners of Pinellas County is vested with countywide planning authority by section 2.04(s) of the Pinellas County Charter. Such authority is limited to the authority provided for in the county charter and as provided in this act.

Section 10. Countywide plan repeal, readoption, and amendment.—

(1) COUNTYWIDE PLAN AND RULES.—

(a) The existing countywide plan is to be repealed and replaced by the adoption of a new, broadly defined, and policy-based countywide plan that conforms to the intent of this act. It is specifically intended that a new countywide plan provide for fewer land use categories than the existing countywide plan. The new countywide plan shall be prepared in collaboration with the member local governments pursuant to a process and timetable established by the council and countywide planning authority. Council staff shall use best efforts to develop a new countywide plan as expeditiously as possible. Before the adoption of a new countywide plan, the existing countywide plan shall remain in full force and effect.

(b) An amendment to the countywide plan map may be initiated by the council only in order to implement the new countywide plan that conforms to the intent of this act. Pursuant to this one-time grant of authority which is

intended to repeal and replace the existing countywide plan map, the council may initiate an amendment to the countywide plan map to place any new plan map categories designated under a new countywide plan on particular parcels of property, as applicable. Such amendment to the countywide plan map initiated by the council shall be sent to the local government with jurisdiction over the subject parcel for comment and review a minimum of 60 days before council action. The manner in which comment, review, and adoption by the local government, if applicable, shall take place shall be set forth in the countywide rules.

(c) The recommendation to repeal and replace the existing countywide plan shall be by an affirmative vote of a majority of the voting members of the council. Any recommendation to subsequently amend the countywide plan shall be by an affirmative vote of a majority of the voting members present and constituting a quorum.

(d) The countywide planning authority action to repeal and replace the existing countywide plan as recommended by the council shall be by a majority vote of the entire countywide planning authority. A majority vote of the members present and constituting a quorum of the countywide planning authority is required to make any subsequent amendment to the countywide plan as recommended for adoption by the council.

(e) Upon adoption by the countywide planning authority, the countywide plan shall have the full force and effect of law countywide. All local governments' future land use plans and land development regulations shall be consistent with the countywide plan map and rules. The countywide planning authority shall have the authority to enforce the countywide plan map and rules.

(2) CONSISTENCY REVIEW.—

(a) As of the effective date of this act, it is acknowledged that the council has recently reviewed each local government's future land use plan and land development regulations for consistency with the existing countywide plan map and rules and has determined each such future land use plan and land development regulation to be consistent with the existing countywide plan map and rules or has outlined the actions necessary to establish such consistency. After a new countywide plan map and rules that conform to the intent of this act are adopted, it is specifically intended that the local governments' individual plans be made consistent with the new countywide plan map and rules, if necessary, either:

1. Simultaneously with the next scheduled amendment, after January 1, 2016, of the local future land use plan and land development regulations pursuant to the evaluation and appraisal review, as required for local plans under part II of chapter 163, Florida Statutes; or

2. Within 3 years after the adoption of the revised countywide plan map and rules.

(b) Local governments' land use categories and corresponding regulations shall be considered to be consistent with the countywide plan map and rules if the local governments' land use categories provide for:

1. Maximum densities and intensities that are equal to or less than the maximum densities and intensities provided by the corresponding countywide plan map categories as set forth in the rules.

2. Some or all of the same permitted uses as enumerated in the corresponding countywide plan map categories.

3. Such other standards, rules, or procedures contained in the countywide rules as are applicable.

(c) If a local government's future land use plan and land development regulations have been determined to be consistent with the countywide plan map and rules, the local future land use plan and land development regulations shall regulate development for the subject property.

(d) It is the intent of this act that land uses, lots, and structures existing on the effective date of this act that may be rendered nonconforming by the adoption of a new countywide plan shall be permitted to continue until such nonconformities are removed or ceased. Such nonconformities shall be administered by the local government with jurisdiction.

### (3) COUNTYWIDE PLAN MAP AMENDMENTS.—

(a) Amendments to the adopted countywide plan map relating to a land use designation for a particular parcel of property may be initiated by the local government that has jurisdiction over the subject property. Amendments to any standard, policy, or objective of the countywide plan strategies or the rules may be initiated by the council or any local government.

(b) The council shall have 60 days after the day an application is filed with the council to act on that amendment and forward the recommendation to the countywide planning authority. Action by the council may include recommendation for approval, denial, continuation, or an alternative compromise amendment, any of which shall constitute action by the council within the stipulated 60-day period. Provision for the council to make a recommendation for an alternative compromise amendment shall be as approved and set forth in the rules.

(c) All amendments shall be transmitted to the countywide planning authority with a recommendation by the council. A vote of a majority plus one of the entire countywide planning authority is required to take any action on the proposed amendment that is contrary to the council's recommendation. A recommendation shall be received by the countywide planning authority before it takes action on an amendment.

(d) After action by the countywide planning authority, any substantially affected person, the council, or the local government that initiated the plan

amendment may seek a hearing pursuant to chapter 120, Florida Statutes. Any substantially affected person may participate in the hearing. At the conclusion of the hearing, the hearing officer's recommended order shall be forwarded to and considered by the countywide planning authority in a final hearing. The basis for the countywide planning authority's final decision approving or denying the proposed amendment is limited to the findings of fact of the hearing officer. This paragraph shall only apply to amendments to the countywide plan map.

(e) The council may contract with the Division of Administrative Hearings to provide the hearing officers required by this act. The council shall be responsible for compensating the division for costs incurred by the division in the hearing process. Except as provided in paragraph (d), the council and the countywide planning authority are not subject to chapter 120, Florida Statutes.

(f) An administrative hearing under paragraph (d) is limited to a review of the facts pertaining to the subject property, the countywide plan map, and the rules applicable thereto. An administrative hearing is not the appropriate forum for a constitutional challenge.

(g) Decisions by the countywide planning authority, acting in its capacity under this act, are legislative in nature. Decisions made by the countywide planning authority may be challenged in a court of competent jurisdiction.

#### Section 11. Public hearing and notice requirements.—

(1) PUBLIC HEARING BEFORE THE COUNCIL.—The council shall hold at least one public hearing to consider recommending the adoption of or an amendment to the countywide plan. More than one public hearing may be held at the discretion of the council. The location of public hearings shall be determined by the council.

(2) PUBLIC HEARING BEFORE THE COUNTYWIDE PLANNING AUTHORITY.—An ordinance adopted by the countywide planning authority that adopts or amends the provisions of the countywide plan shall be enacted or amended pursuant to the following procedure:

(a) For an amendment to the adopted countywide plan map relating to property involving less than 5 percent of the area of the county, the countywide planning authority shall hold a public hearing on the proposed ordinance.

(b) For an adoption of or amendment to the countywide plan strategies or the countywide rules, for an amendment to the adopted countywide plan map relating to the change in a land use designation for property involving 5 percent or more of the area of the county, or for an adoption of the countywide plan map initiated by the council pursuant to section 10(1)(b), the countywide planning authority shall hold two advertised public hearings on the proposed ordinance. At least one of the hearings shall be held after 5 p.m. on a

weekday, and the second hearing shall be held at least 2 weeks after the first hearing.

(3) FORM OF NOTICE.—Notice shall be provided for in accordance with applicable Florida law and as provided for in the rules.

Section 12. Severability.—It is declared to be the intent of the Legislature that if any section, subsection, sentence, clause, or provision of this act is held invalid by any court of competent jurisdiction, the remainder of the act shall not be affected.

Section 13. Part II of chapter 163, Florida Statutes.—Nothing in this act shall be construed to allow the county or any municipality in the county to adopt a local government comprehensive plan required by part II of chapter 163, Florida Statutes, or any amendment to such plan, that does not comply with part II of chapter 163, Florida Statutes, or any applicable rule or regulation adopted by the Department of Economic Opportunity to implement part II of chapter 163, Florida Statutes. In addition, nothing in this act shall be construed to allow any development order, as defined in section 163.3164, Florida Statutes, to be issued by the county or any municipality in the county that is not consistent with the plans adopted pursuant to part II of chapter 163, Florida Statutes, and any applicable rule or regulation adopted by the Department of Economic Opportunity to implement part II of chapter 163, Florida Statutes.

Section 4. Chapters 73-594, 74-584, 74-586, 76-473, 88-464, and 90-396, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law or upon the final approval of the Pinellas County Metropolitan Planning Organization's reapportionment plan increasing its membership from 11 to 13 members ("the MPO reapportionment plan"), whichever occurs later. The terms of the existing members of the Pinellas Planning Council shall continue until the MPO reapportionment plan becomes effective and the new members are appointed to the council.

Approved by the Governor April 27, 2012.

Filed in Office Secretary of State April 27, 2012.