

Concurrency, approval of coordination agreement

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The Honorable William F. Andrews
Chair, Committee on Education/K-12
Florida House of Representatives
Suite 1301, The Capitol
Tallahassee, Florida 32399-1300

Dear Representative Andrews:

You ask whether section 163.3177(6), Florida Statutes (1996 Supplement), must be amended in order to allow approval of an intergovernmental coordination agreement by a two-thirds majority, rather than all, of the municipalities within a county when the county seeks to extend concurrency requirements to public schools within the county.

Section 163.3177(6), Florida Statutes (1996 Supplement), requires that certain specified elements must be included in a comprehensive plan. Paragraph (h) of section 163.3177(6) requires inclusion of an intergovernmental coordination element in the local government's plan. Section 163.3177(6)(h)2. states:

"The intergovernmental coordination element shall further state principles and guidelines to be used in the accomplishment of coordination of the adopted comprehensive plan with the plans of school boards and other units of local government providing facilities and services but not having regulatory authority over the use of land. In addition, the intergovernmental coordination element shall describe joint processes for collaborative planning and decisionmaking on population projections and public school siting, the location and extension of public facilities subject to concurrency, and siting facilities with countywide significance, including locally unwanted land uses whose nature and identity are established in an agreement. Within 1 year of adopting their intergovernmental coordination elements, each county, *all the municipalities within that county*, the district school board, and any unit of local government service providers in that county *shall establish by interlocal or other formal agreement executed by all affected entities, the joint processes described in this subparagraph consistent with their adopted intergovernmental coordination elements.*" (e.s.)

Thus, currently *all*, not some percentage of, the municipalities within the county must enter into the agreement.

Section 163.3177(10)(h), Florida Statutes (1996 Supplement) states that it is the intent of the Legislature that public facilities and services needed to support development shall be available concurrently with the impacts of such development in accordance with section 163.3180, Florida Statutes (1996 supplement). Section 163.3180(1)(a), requires statewide concurrency for roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and mass transit, where applicable. If a local government decides to extend concurrency requirements to public

schools, however, section 163.3180(1)(b) requires that the plan, or amendment, satisfy the requirement for intergovernmental coordination set forth in section 163.3177(6)(h)2.

Accordingly, if the county extends its concurrency requirements to public schools, the statute currently contemplates that an agreement must be entered into by all of the municipalities within the county as well as the school district and any unit of local government service providers in that county regarding the intergovernmental coordination elements.

Whether the statute should be amended to allow agreement by less than all municipalities within the county presents a question of policy which must be resolved by the Legislature rather than by this office. In order to extend concurrency standards to public schools countywide with less than full agreement by all municipalities within the county, section 163.3177(6)(h)2., Florida Statutes (1996 Supplement), must be amended.

I trust that the above informal comments may be of assistance.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk