



Local Government Comprehensive Planning Certification Program Has Limited Participation

at a glance

Since the Local Government Comprehensive Planning Certification Program's creation in 2002, only five of the state's local governments have chosen to apply for certification. Three local governments were certified by the Department of Community Affairs (cities of Lakeland, Miramar, and Orlando) while two withdrew their applications (cities of Naples and Sarasota). The City of Freeport was certified as a result of a law passed in the 2005 legislative session.

The four certified cities have been subject to less state and regional oversight of their comprehensive plan amendments which has allowed them to expedite the amendments' approval. Counties, regional planning councils, and the Department of Community Affairs generally report they did not experience problems as a result of the cities participating in the program.

Given the low level of participation, the Legislature may wish to consider reviewing the program in the future in conjunction with other recent state initiatives that are also intended to expedite the process of adopting comprehensive plan amendments, such as the Alternative State Review Process Pilot Program. When the Legislature reviews this pilot program, it may also wish to consider whether the Local Government Comprehensive Planning Certification Program be continued or discontinued.

Scope

As directed by the Legislature, OPPAGA examined the Department of Community Affairs' Local Government Comprehensive Planning Certification Program. Specifically, this report addresses four questions.

- How many local governments have participated in the program?
- What benefits do local governments report receiving from participating in the program?
- What effect has certification had on local governments and planning agencies?
- What lessons can be learned from the department's efforts to implement the program?

Background

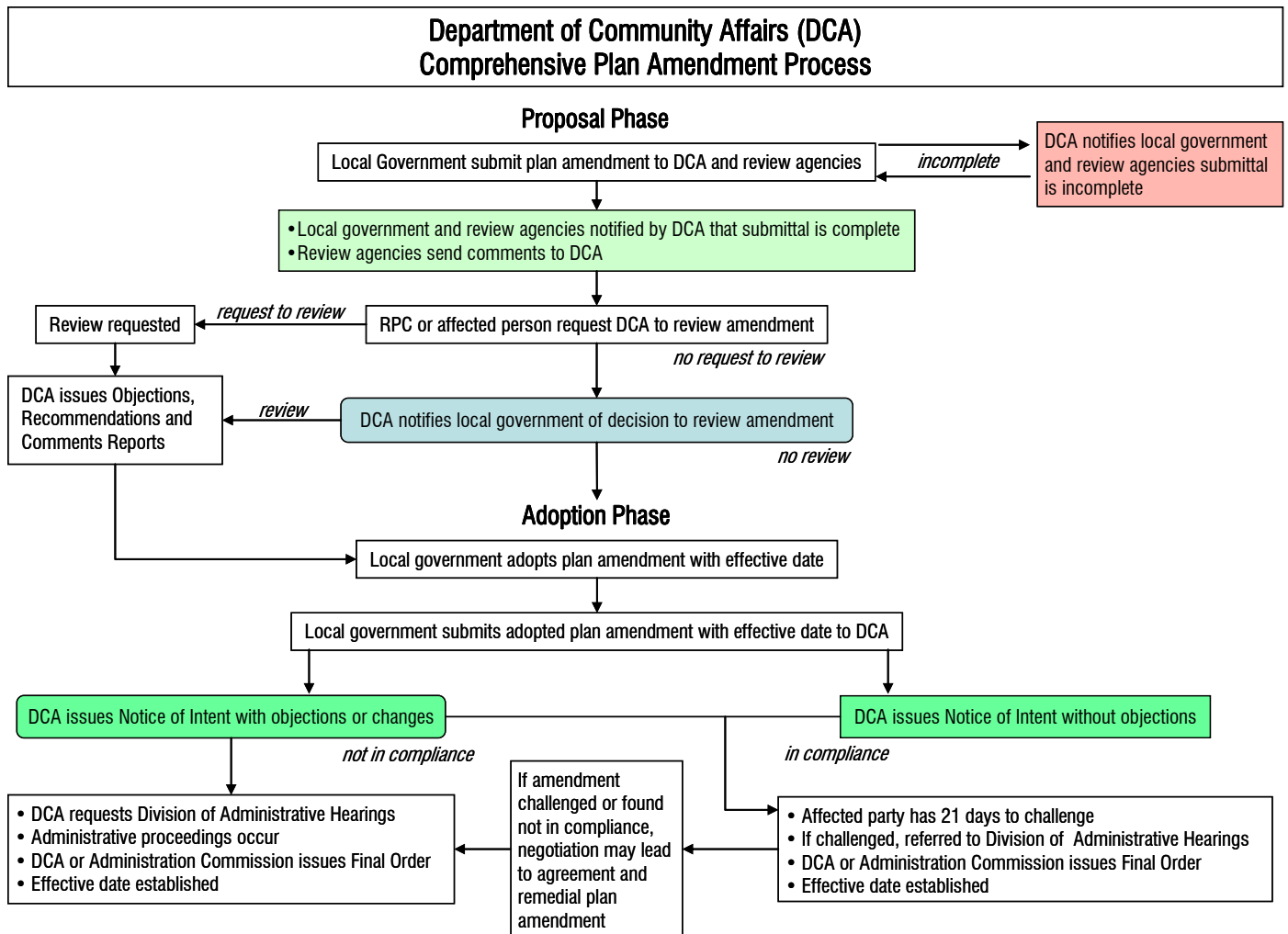
The Local Government Comprehensive Planning and Land Development Regulation Act establishes Florida's growth management system and requires each local government to adopt a comprehensive land use plan.¹ After a local comprehensive plan has been adopted, subsequent changes are to be made through amendments to the plans.

¹ Sections 163.3161-163.3244, F.S.

As shown in Exhibit 1, the comprehensive plan amendment process is complex and involves multiple actions and reviews by local, state, and regional governmental entities. For example, local governments submit their amendments to the Department of Community Affairs and appropriate review agencies. These review agencies include the appropriate regional planning council, water management district, the Department of Education, Department of Environmental Protection, the Department of State, and the Department of Transportation.

The typical comprehensive plan amendment review process is represented in Exhibit 1. Due in part to the multiple steps in this process, it can take long periods of time to obtain final approval of comprehensive plan amendments. Various time periods ranging from 5 days to 120 days are associated with the individual review steps, and it can take additional time for a local government to receive approval for a plan amendment.

**Exhibit 1
Amending Local Comprehensive Plans Is a Complicated Process**



Source: Department of Community Affairs.

To encourage local governments to adopt and implement exemplary planning practices the 2002 Legislature created the Local Government Comprehensive Planning Certification Program.² Local governments certified to participate in the program by the Department of Community Affairs are subject to less state and regional oversight of their comprehensive plan amendments affecting specified certification areas.³ In general, amendments that change land uses within the certified areas are exempt from review by the Department of Community Affairs and are not subject to department objections, recommendations, or comments. By eliminating the department’s review, the length of time required to adopt a comprehensive plan amendment can be shortened by as much as 125 days.⁴

To become certified, a local government must submit an application to the Department of Community Affairs that contains evidence of effective local planning and specify the proposed certified area. The local government must also include copies of the applicable local government comprehensive plan, land development regulations, interlocal agreements, and other relevant information that support its eligibility for designation. The Department of Community Affairs reviews the information provided by the local government and decides whether it is eligible for certification.

² Section 163.3246, F.S.

³ Certification areas are contiguous, compact, and appropriate for urban growth and development within a 10-year planning time frame.

⁴ The law creating the program did not exempt all comprehensive land use plan amendments from state and regional review. For example, plan amendments that change the boundaries of the certification area or that affect lands outside the certified area or implement new statutory requirements are still subject to review.

Questions and Answers —

How many local governments have participated in the program?

Since the program’s creation in 2002, only five of the state’s 478 local governments have chosen to apply for certification. Exhibit 2 shows that of these five local governments,

- three were certified by the Department of Community Affairs to participate in the program (cities of Lakeland, Miramar, and Orlando); and
- two withdrew their applications (cities of Naples and Sarasota). Representatives of the City of Sarasota said they abandoned the effort because they viewed the certification process as burdensome.

The City of Freeport in Walton County, was certified as a result of a law passed in the 2005 legislative session, and was not required to apply for certification. Freeport’s comprehensive plan amendments are generally not subject to state review unless requested by the city. However, if an amendment pertains to a development of regional impact (DRI) within the certified area, developers proposing the project must notify the West Florida Regional Planning Council. The regional planning council is to coordinate with the developer and the city to help ensure that the development meets concurrency requirements as well as federal, state, and local environmental permit requirements.

Exhibit 2 The Department of Community Affairs Certified Three of Five Local Government Applicants

Local Government	Application Submittal Date	Certification Approval Date	Elapsed Time Until Certified
Orlando	01/06/03	06/10/04	17 months
Lakeland	01/29/03	07/02/04	17 months
Miramar	01/07/03	09/06/05	32 months
Naples	02/03/03	Withdrew ¹	-
Sarasota	02/03/03	Withdrew ¹	-

¹ Naples and Sarasota ceased pursuit of certification four and seven months, respectively, after their applications were initially submitted. Source: OPPAGA analysis of the Department of Community Affairs records.

Exhibit 2 also shows that the certification application and review process took a long time to complete. For example, the City of Miramar was certified 32 months (two and one-half years) after it submitted its application.

Department managers explained that the low level of program participation may be due to local governments believing that they would not be able to meet the criteria for having implemented exemplary planning practices. They also believed that many local governments do not want to be exempt from state review of their comprehensive plan amendments.

What benefits do local governments report receiving from participating in the program?

Representatives of the cities of Lakeland, Miramar, and Orlando told us that the primary benefit of being certified was that it shortened the time taken to adopt exempt comprehensive plan amendments by two to three months. They also believed that being certified indicated that the cities had strong comprehensive planning processes which made them more attractive to citizens and businesses. A representative of the City of Freeport told us being certified allowed the city to expedite the approval of planned developments that stimulated economic growth.

Representatives of these cities also reported there have been no objections to their comprehensive plan amendments since the cities were certified to participate in the program.

What effect has certification had on local governments and planning agencies?

A variety of entities including state agencies, regional planning councils, and counties may review a city’s proposed comprehensive plans amendments. In general, counties review a city’s plan amendments to determine their consistency with the county comprehensive plan. For example, in Broward County, the county’s Planning Council must certify that an amendment to a local plan substantially conforms with the county plan before it becomes effective. Regional planning councils review city plan amendments to determine their effects on regional resources and on areas outside of the city’s legal jurisdiction.

Generally, county and regional planning council staff that we interviewed believed the program had not adversely affected their planning efforts. Planning staff from the counties in which the cities of Lakeland, Miramar, and Orlando are located (Polk, Broward, and Orange counties, respectively) told us the cities’ participation in the program has not caused adverse effects. The county planning staff said that these cities have strong working relationships with their counties as well as with the state. Representatives of the regional planning councils serving these cities also said the cities’ participation in the program has had only a minimal effect on neighboring local governments.

However, while Walton County planning staff commended the City of Freeport for its forward-looking development plans, they also believed that the city and the county needed to improve coordination in addressing issues such as transportation concurrency and storm water runoff. A representative of the West Florida Regional Planning Council contended that it was too early to tell what effect Freeport’s participation in the program would have on other local governments. The regional planning council is currently assisting Freeport in developing its comprehensive plan amendments.

Department of Community Affairs’ staff reported they were not aware of any adverse effects resulting from the cities of Lakeland, Miramar, and Orlando participating in the program and that no challenges had been made to amendments adopted by certified cities. They said this was likely due to the fact that these cities had implemented effective comprehensive planning processes, which was evidenced by their certification to participate in the program. However, they said they were aware of concerns that Walton County had raised with the large amount of development approved by the City of Freeport and its potential effect on issues such as transportation concurrency.

What lessons can be learned from the department's efforts to implement the program?

Although only four local governments have been certified to participate in the program since its creation in 2002, the state's experiences provide lessons concerning the program.

Specifically, representatives of the three cities that were certified by the Department of Community Affairs contended the certification review and approval process was made more difficult by their cities having to compile and submit additional materials in responses to multiple department requests for more information. They also contended that this lengthened the time taken to complete the review process.

Conclusions and Recommendations

Since the Local Government Comprehensive Planning Certification Program's creation in 2002, only five of the state's local governments have chosen to apply for certification. Three local governments were certified by the Department of Community Affairs (cities of Lakeland, Miramar, and Orlando) while two withdrew their applications (cities of Naples and Sarasota). The City of Freeport was certified as a result of a law passed in the 2005 legislative session.

The four certified cities have been subject to less state and regional oversight of their comprehensive plan amendments, which has allowed them to expedite the amendments' approval. Generally, regional planning councils and counties report that the cities' participation in the program has not adversely their planning efforts.

Cities that were certified by the Department of Community Affairs contended the certification review and approval process was made difficult by their cities having to compile and submit additional materials in responses to multiple department requests for more information. If any additional cities apply for certification, the department should work closely with them to make sure they are aware of the types of information they will need to submit to become certified.

Given the low level of participation in the program, the Legislature may wish to consider reviewing it in the future in conjunction with other recent state initiatives that are also intended to reduce state oversight of comprehensive plan amendments. For example, the 2007 Legislature passed Ch. 2007-204, *Laws of Florida*, that created an Alternative State Review Process Pilot Program under which certain urban areas (Pinellas and Broward counties, and the municipalities within these counties, and the cities of Jacksonville, Miami, Tampa, and Hialeah) would receive a reduced level of state oversight of their comprehensive plan amendments. When the Legislature reviews this pilot program, it may also wish to consider whether the Local Government Comprehensive Planning Certification Program be continued or discontinued.

Agency Response

In accordance with the provisions of s. 11.51(5), *Florida Statutes*, a draft of our report was submitted to the Secretary of the Department of Community Affairs to review and respond. The Secretary's written response is reprinted herein in Appendix A.

OPPAGA supports the Florida Legislature by providing evaluative research and objective analyses to promote government accountability and the efficient and effective use of public resources. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

Florida Monitor: www.oppaga.state.fl.us

Project supervised by Larry Novey (850/487-3768)

Project conducted by Nan Smith (850/487-9165)
Staff Director Tom Roth (850/488-1024)

Gary R. VanLandingham, Ph.D., OPPAGA Director

Appendix A



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS
"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

December 11, 2007

BY FACSIMILE AND U.S. MAIL

Mr. Gary R. VanLandingham
Director, Office of Program Policy Analysis and
Government Accountability
Claude Pepper Building
111 West Madison Street, Room 312
Tallahassee, Florida 32399-1475

Re: OPPAGA's Report on the Local Government Planning Certification Program

Dear Mr. VanLandingham:

This letter acknowledges the Department of Community Affairs' (Department) receipt of the Office of Program Policy Analysis & Government Accountability's (OPPAGA) Local Government Comprehensive Planning Certification Program report, as required by Section 163.3246(14), Florida Statutes, which was provided to the Department on December 10, 2007. Thank you for the opportunity to review and respond to this report.

The Growth Management Act establishes "minimum" requirements for local comprehensive plans. (See Section 163.3161(7), Florida Statutes). The Certification Program is designed to encourage local governments to exceed those minimum requirements by making "a commitment to implement exemplary planning practices." (See Section 163.3246(1), Florida Statutes). Examples of the exemplary planning practices are set forth in Section 163.3246(2)(c), Florida Statutes. As an incentive to local governments to increase the level of their planning beyond minimum requirements, the statute provides for the complete elimination of state and regional review of most plan amendments in a certified area. (See Section 163.3246(9), Florida Statutes). State and regional review of comprehensive plan amendments is eliminated because it is not needed for local governments that have exceeded minimum planning requirements, have demonstrated a "record of effectively adopting, implementing, and enforcing its comprehensive plan," and have a high "level of technical planning experience." (See Section 163.3246(1), Florida Statutes).

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
Phone: 850-488-8466/SUNCOM 278-8466 Fax: 850-921-0781/SUNCOM 291-0781
Website: www.dca.state.fl.us

COMMUNITY PLANNING
Phone: 850-488-2356/SUNCOM 278-2356
Fax: 850-488-3309/SUNCOM 278-3309

AREAS OF CRITICAL STATE CONCERN FIELD OFFICE
Phone: 305-289-2402
Fax: 305-289-2442

HOUSING AND COMMUNITY DEVELOPMENT
Phone: 850-488-7956/SUNCOM 278-7956
Fax: 850-922-5623/SUNCOM 292-5623

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Given these facts, the Department respectfully differs with the following two issues as they are addressed in the OPPAGA report:

- The report implies that the certification process and its requirements are time-consuming and that this has negatively impacted the program. Representatives of the City of Sarasota are quoted as saying that they abandoned certification efforts because the process was burdensome. Exhibit 2 on page 3 demonstrates that the application and review process take a long time to complete. Page 5 states that the certification review and approval process was made difficult by multiple Department requests for the compilation and submission of materials from program applicants. The Department contends that the Legislature did not intend to make it easy for local governments to be certified and therefore exempt from state and regional review. Rather, it intended to establish very high standards for certification and require less state and regional oversight of the local comprehensive plan amendment process for only those local governments which meet the eligibility requirements in the law and voluntarily enter into a compliance agreement with the Department to perform various activities, including achieving community development goals pertaining to statutorily established effectiveness criteria. To assist local governments with the program, the Department provided procedural and technical assistance to interested local governments through amendments to Rule 9J-11, Florida Administrative Code.
- On page 4, the section titled, “What effect has certification had on local governments and planning agencies,” is focused on whether the Certification Program had any adverse impacts on local planning efforts. Given the Certification Program’s purpose of improving the quality of planning, perhaps a more beneficial approach would have been to examine the annual reports provided by participating local governments to determine whether their work programs were carried out and the community goals spelled out in their compliance agreements with the Department were met. The Department is using such an approach in completing its evaluation of the Local Government Certification Program in accordance with Section 163.3246(13), Florida Statutes, which will be released by January 1, 2008.

The Department believes that there are much more effective ways of improving local planning and expediting and streamlining the comprehensive plan amendment review process than the Certification Program. In addition, as was pointed out to the OPPAGA auditors during their interview with me, the Legislature has made substantial reductions in the staff of the Department’s Division of Community Planning over the last four or five years, while at the same time increasing the Department’s program responsibilities. Local governments are similarly experiencing significant budget shortfalls. For these reasons and others, the Department will be proposing legislation in 2008 to eliminate the Certification Program and build upon and expand the recently enacted alternative state review pilot project to include a much larger number of local governments.

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Again, thank you for the opportunity to respond to the OPPAGA report as well as for the opportunity to improve local government planning processes.

Sincerely yours,



Thomas G. Pelham
Secretary

TGP/sc

cc: Ms. Melinda Miguel , Chief Inspector General, Executive Office of the Governor
Ms. Annette Kittrell, Inspector General, Department of Community Affairs
Mr. Larry Novey, Chief Legislative Analyst, OPPAGA
Mr. Tom Roth, Staff Director, OPPAGA