

FSBA Issue Brief: Amendment 4

Amendment 4, which will appear on the 2010 General Election ballot, would amend the Florida Constitution to require that, before a local government may adopt a new comprehensive land use plan, or amend a comprehensive land use plan, such proposed plan or plan amendment must be subject to vote of the electors of the local government.

Background

Florida's Growth Management Act requires every city and county government to adopt a comprehensive land use plan ("Comp Plan") containing various "elements". The elements address short and long-term policies that, together, determine the pattern of growth and development within a city or county. Such elements include traffic circulation, future land use, affordable housing, conservation lands, capital improvements, and intergovernmental coordination. The Comp Plan is essentially a blueprint for growth over a 20-year planning time frame.

Comp Plans are amended regularly – at least twice a year – and the law imposes specific minimum requirements on the amendment process, including provisions requiring amendments to be supported by adequate data and analysis, public hearings, review by state and regional agencies, opportunities for public input and challenge, and a final vote by the governing body of the city or county. It is important to note that Comp Plan amendments can be small (such as correcting a grammatical error), large (such as amendments required to implement school concurrency), complex (such as transportation concurrency) or simple (conforming, but not changing, land use designations following an annexation of new land into the boundaries of a city).

Concerns

School Concurrency – Of direct interest to school boards is the potential impact of Amendment 4 on the implementation of school concurrency plans. Many provisions of school concurrency require periodic amendments to city and county comprehensive plans. School districts that have labored over negotiations with city and county governments to hammer out a workable concurrency interlocal agreement and related concurrency provisions can appreciate the havoc that could ensue from one "no" vote in a referendum.

Cost – Amendment 4 has been tested in one small Florida city – St. Pete Beach – in which the city's voters approved some amendments to the Comp Plan. The election was challenged – based on the ballot language among other things – and the result has been an endless series of lawsuits. Considering the number of cities and counties in Florida that each have their own Comp Plan, the number of plan amendments each year, the number of elections that would be necessary for the public to consider those amendments, and the number of lawsuits that are likely to ensue, it's not difficult to imagine the staggering price tag that would accumulate as a result of Amendment 4.

Misleading – Many people confuse Comp Plan amendments with other types of local government actions concerning the use of land, such as a development order. As a result, citizens are likely to expect that Amendment 4 will provide an opportunity to decide where roads, schools, office buildings, and shopping malls will be built, but this will not be the case. These types of decisions are usually accomplished through a development order and NOT by amendment to the Comp Plan. Thus, Amendment 4 is unlikely to improve the opportunity for citizens to have input on the decisions that are most important to them.

Majority Rule – Voters are most likely to vote in their own best interest, rather than in the best interest of the community as a whole. This can be counterproductive to thoughtful long range planning. For example, voters might reject necessary, but possibly unpopular, initiatives – such as planning for solid waste facilities, correctional facilities, and affordable housing.

Minority Rule – Given that voter turnout in local elections is often less than 20%, important planning decisions could be made by a small group of voters rather than a council or board that represents the entire citizenry.

Overkill – Only a very small number of Comp Plan amendments are controversial, but Amendment 4 would require a referendum regardless of the size or significance of the amendment.

It's Not As Easy As It Looks – Some Comp Plan amendments are very complex and few voters will have the time to pore over stacks of reports, underlying data, and supporting analyses in order to reach an informed decision.

Sound Bites vs. Sound Judgement – On those rare occasions when a Comp Plan amendment is both complex or controversial, special interest groups are likely to aggressively campaign for passage or defeat of an amendment. This can result in an ad campaign that grossly mis-states and oversimplifies the issues through catchy sound bites that may attract voters but undermine sound decision making.

A Comprehensive Plan Won't Be "Comprehensive" For Long – Amendment 4 will result in a tangled and misaligned patchwork of incompatible planning decisions.

FSBA Position

Because of these concerns, and others, FSBA is opposed to Amendment 4.