

**MEMORANDUM**

**TO:** LCIR Members  
**FROM:** Marsha Hosack  
**RE:** Minutes for the LCIR Meeting February 7, 2005 in Tallahassee, Florida  
**DATE:** March 7, 2005

---

Representative Adam Hasner, LCIR Chair, called the meeting to order at 3:00 p.m. A quorum was present. The attendance of the committee members was as follows:

PRESENT

Representative Hasner  
Senator Jones  
Senator Constantine  
Senator Klein  
Senator Lynn  
Representative Taylor  
Representative Williams  
Commissioner Bullard (via telephone)  
Mr. Greer  
Councilwoman Starace  
Commissioner Welch (via telephone)

ABSENT

Representative Brutus  
Commissioner Palmer  
Secretary Cohen

**Opening Comments**

Representative Hasner welcomed members to the committee meeting.

**Minutes of January 24, 2005, LCIR Meeting**

The minutes of the January 24, 2005 LCIR Meeting were approved unanimously.

**Interim Project on Enclaves**

Kay Pelt, Legislative Analyst, provided the members with a summary of the 2004-05 Interim Project related to Municipal Enclaves. The summary included a legislative history of enclaves, survey findings, and policy options which included adaptations from legislation filed last year by Senator Constantine.

Following the presentation, Senator Lynn asked Senator Constantine if he would be filing the same legislation again, and he replied that he would. Councilwoman Starace asked if the third option listed in the report, which would amend s. 171.046(2), F.S., to require that all cities with populations of 3,000 or more and counties enter into interlocal agreements for the annexation of enclaves by January 1, 2010, as a prerequisite for future annexation, could be removed from the legislation. Senator Constantine explained that the option was not in his legislation and was staff's recommendation.

The chairman asked for a motion to approve the report without option three. The report as amended was approved without objection. Staff was directed to track Senator Constantine's bill as well as other relevant bills.

### **Interim Project on the Impact of the Mentally Ill on County Jails**

Chairman Hasner introduced Dick Drennon, Senior Legislative Analyst, to give a presentation on the draft report *Review of the Impact of the Mentally Ill Population on County Jails*. He opened his remarks by stating that mentally ill individuals who are incarcerated are increasingly a national concern. Nationally, estimates of the county jail population who are mentally ill ranges between 7 and 16 percent. Some Florida counties report even higher percentages, with anti-psychotic medications being administered to over 20 percent of their jail population.

Mr. Drennon further stated that mentally ill people who are incarcerated in county jails as compared to the general jail population: 1) cost more to house and supervise; 2) incur diagnosis, medication, and treatment costs; and 3) tend to stay in jail longer. Jail is not an appropriate setting for many of the mentally ill who are arrested for misdemeanor, non-violent offenses. However, central to these concerns is the availability and linkages of community mental health resources to the local criminal justice system and especially local jails.

Mr. Drennon noted that the mentally ill can be treated more effectively in a less restrictive setting and with less expense in a community mental health setting. Medicaid, with its present 59 percent federal match, currently funds over 50 percent of the costs of community mental health treatment and services. Medicaid funding is not available to the mentally ill who are incarcerated.

Next, several jail diversion and aftercare programs that lessen the impact of the mentally ill population on Florida's county jails were described.

The first program described was Pre-arrest Crisis Intervention Teams, known as CITs, which is designed to divert the mentally ill to appropriate community mental health treatment upon contact with police in lieu of arrest. CITs are composed of volunteer police officers who have received at least 40 hours of specialized training. Six urban areas in Florida have CITs (page 33 of the draft report has a listing).

Post-arrest mental health courts are designed to reduce jail time and obtain treatment for the mentally ill. Generally a sentence is reduced or set aside if the defendant successfully completes agreed-upon community mental health treatment. Mental health courts for non-violent misdemeanor violators exist in six Florida counties. The mental health court was pioneered in Broward County, and it continues as a national role model with the addition of a low level felony offender mental health court.

Mr. Drennon mentioned that at the federal level, The Mentally Ill Offender Treatment and Crime Reduction Act of 2004, S.1194, became Public Law No: 108-414 on October 30, 2004. This law directs that grants be used to create or expand mental health courts or other court-based programs, in-jail transitional services, specialized mental health training and services, and support intergovernmental cooperation between State and local governments with respect to the mentally ill offender. The law authorizes \$50 million in FY 2005 and such sums as necessary for fiscal years 2006 through 2009.

Post-incarceration jail linkage programs are designed to place a mentally ill inmate, upon release, in the care of the local community mental health system. Florida Assertive Community Treatment teams, known as FACT teams, are designed to provide comprehensive mental health services 24 hours a day, 7 days a week, delivered by a multidisciplinary treatment team that is responsible for identified individuals who have a serious mental illness. There are 30 FACT teams in 22 Florida counties treating over 2,000 individuals.

Long-term supervised housing is a key component in all mental health diversion programs in Florida. Mental health residential facilities (1,925 beds), assisted living facilities (13,962 beds), and adult family-care homes provide such housing. However, the demand for such housing far exceeds their capacity in Florida with an estimated 160,000 severely and persistently mentally ill population in Florida estimated to be eligible for publicly funded adult mental health services.

Mr. Drennon then explained that LCIR staff sent a survey to each Sheriff's office through the Florida Sheriffs Association last fall. The survey was designed to examine the processes, costs, and challenges relating to individuals with mental health problems who come in contact with the county jail system. Many insightful responses were received from twenty counties. The information provided through that survey was supplemented by recent studies related to the community mental health systems in Orange and Sarasota counties and a recent Miami-Dade County Grand Jury Report. A list of responding counties and a copy of the LCIR survey are contained in the draft report.

Mr. Drennon stated that the report's major findings highlight the inadequate resources within the criminal justice system necessary to cope with the mentally ill. Inadequate public funding for community mental health services is widely viewed as negatively impacting the treatment of the mentally ill in Florida communities, limits the ability of the criminal justice system to divert the mentally ill from jail to more appropriate community mental health settings, and limits aftercare of the mentally ill upon release from jail. The funding of recent changes to the Baker Act allowing involuntary outpatient placement is seen as important, if not essential, to its implementation.

Mr. Drennon closed by presenting the report's recommendations:

- Monitor Florida's utilization of federal grant monies made available by P.L 108-414 and other federal sources and support future funding.
- Encourage and support the Department of Children and Families in developing the training and reporting components of the police-based Crisis Intervention Team programs and other pre-arrest diversion programs as deemed appropriate by local community mental health systems.
- Continue to fund and expand the Florida Assertive Community Treatment teams and encourage routine communication with the judicial system, especially appropriate jail personnel.
- Continue to utilize federal matching dollars to the extent possible for the delivery of community mental health case management and services.
- Encourage the Department of Children and Families to work with the federal government to promote more flexible spending requirements for federal funding sources, coupled with outcome reporting requirements.

Senator Lynn expressed concern about whether proper anti-psychotic medications were being administered at some jails, especially in smaller counties. Mr. Drennon replied that jails are legally required to provide basic medications but could not force an inmate to take them unless they posed a clear danger to themselves or others in the jail. He suggested that a representative of the Florida Sheriffs Association may wish to comment on the matter during subsequent testimony at the meeting.

In a second question, Senator Lynn asked about the status of recent changes to the Baker Act that allows for involuntary commitment to community mental health treatment facilities. Mr. Drennon replied that these changes became effective on January 1, 2005, and that the Florida Department of Children and Family Services was completing work in the implementing rule, which is due to be completed in the

early spring. He further stated that information analyzed by the LCIR staff painted a mixed picture of its probable effect.

Representative Taylor asked if the recent changes to the Baker Act compromised the involuntary commitment procedures in Florida. Mr. Drennon replied that the recent changes add an additional option to the existing Baker Act procedures.

Representative Williams asked about post-incarceration disposition when no community mental health resource is available. Mr. Drennon replied that all too often these individuals are released without any follow-up due to scarce resources.

Jeff Porter, representing the Florida Association of Counties, testified in support of the draft report's findings and recommendations. He stated that counties believe that dollars spent caring for persons in jails who are considered mentally ill could better be spent on treatment programs before arrests rather than later incarceration. The Florida Association of Counties supported the report's recommendations, especially those advocating the 1) utilization of federal funding opportunities to maximize community-based treatment options for the mentally ill, and 2) supporting local government in pre-arrest and intervention programs.

Frank Messersmith, representing the Florida Sheriffs Association, also testified in support. He noted that the Association had lobbied the Legislature for the past several years to get the recent change allowing Baker Act involuntary commitment to community mental health treatment facilities. The reason for pursuing this change was to create a tool to help stop the revolving door costs associated with the mentally ill returning to jail again and again. He stated that on any given day there are more mentally ill in Florida jails than in all other state institutions serving the state's mentally ill population.

In responding to Senator Lynn's previous question about availability of mental health drugs, Mr. Messersmith stated that it is very likely that jails in sparsely populated counties do not have the resources to provide preferred medications or even all the medications that would benefit their mentally ill inmates. He concluded his remarks by emphasizing the need for community mental health resources.

The draft report was then approved by the committee without objection.

### **Growth Management Priorities: Local Government Perspective**

Representative Hasner stated that growth management priorities would be a very important issue this year. He said speakers would address a variety of issues, including annexation and joint planning with school boards.

Palmer Mason, Legislative Affairs Director for the Department of Community Affairs, addressed the Committee on behalf of DCA Secretary Cohen. He stated that DCA circulated a growth management bill on January 7th, and after hearing from stakeholders, the agency realized it needs to take the bill in a different direction. The Governor is interested in: how development impacts school capacity; protecting water resources and supply; road capacity; and economic development. The other issue the Governor's office is very focused on is infrastructure funding. The only way to address growth management is to come up with dollars to catch up on the decades long infrastructure deficit. DCA realized that the original bill had not done a good job of linking the dollars with good planning practices. He stated that it's not good policy to avoid school crowding, and DCA was looking at different ways developers can address problems, including making donations to the school board; and trading property. DCA will also

be looking at its ongoing project of establishing a fiscal impact model. Using such a model would be required if developers want to access state dollars.

Mr. Mason concluded by stating that DCA will be trying to identify state interests that are clear and in statute. The agency is also looking at making plan amendment process simpler. Some other ideas the agency is examining is encouraging urban infill, 20 year plans and build-out plans. The goal is to get communities to use good planning if they want to get dollars or regulatory rewards from the state.

Councilwoman Starace asked that if the bill is retroactive, would it be able to get a financial reward, since Palm Beach already has concurrency. Mr. Mason responded that Palm Beach is a good model to watch. Representative Williams then asked how big DCA's staff is, to which Mr. Mason responded somewhere between 300-400.

Eric Poole, from the Florida Association of Counties, stated that the Growth Management Act has a number of good things in it, including requiring blueprints for growth and comprehensive plans, land regulations, promoting good design, and community involvement. These good things aside, two primary things still need to be addressed: 1) growth management has been overly prescriptive; 2) DCA's oversight has been onerous and needs to be streamlined; and 3) need local infrastructure needs more funding, i.e., giving more flexibility for levying and using gas taxes, ELMS nickel, infrastructure surtax, etc.

Turning to the December 2004 deadline for school districts and counties to enter into planning agreements, Mr. Poole said that anecdotally, it seems like that's been a positive thing.

Senator Lynn inquired what the ELMS nickel meant. Mr. Poole said that this refers to the 5 cents per gallon tax on motor fuel that be used for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted local comprehensive plan. The use of this nickel, according to a 1993 law provides that this nickel can only be used for capital improvements.

Rebecca O'Hara from the Florida League of Cities said that the Growth Management Act has actually held up pretty well despite criticism. The stated premises of the act, consistency and concurrency, have never been fully implemented. The problem is that the state has never articulated what it wants local governments to do. The League wants the state to decide what it wants local comprehensive plans to be.

Some of the plans are enormous and technical. Citizens feel disenfranchised. Ms. O'Hara suggested that the Legislature should stop adding items to the Act; and instead remove items. The state should decide what it cares about and leave the rest to the local governments. Concurrency has never happened due to the lack of funding. The concept limps along, but because there is no funding for infrastructure, concurrency will not happen.

School districts and local governments' interlocal agreements appear to be positive, but it's too early to tell. It's unknown whether the agreements are addressing the problem with school capacity caused by growth. Also, the law is unclear if school districts need to comply with county land development regulations referring to a situation in Islamorada.

Mr. Greer asked Ms. O'Hara why should school districts comply, since districts are not developers and are not authorized to charge fees, be held to the same standards as developers, and referenced shrubbery regulations if chain link fences are erected around a school. There's not enough money for schools to follow details of those land development regulations.

Ms. O'Hara said that school boards are like developers in certain ways, and that rules need to be consistent with community feel but more importantly, with environmental considerations or traffic impacts. Interlocal agreements are designed to get these issues discussed and resolved.

John Wayne Smith from the Florida League of Cities spoke next and said that school districts are bringing out issues but the bottom line is fiscal. There is a need to make sure local governments get autonomy and flexibility to deal with these issues. This will help alleviate competition among local governments. He said he would like to get cities to the table by giving them greater fiscal control.

Mr. Smith turned to annexation and reported that there are some competitive issues and local governments are trying to get some of the tension between cities and counties resolved. He said that the League should start turning to resolving the enclave situation, as well.

Senator Lynn pointed out that cities want to grow because it means more money for them. When cities and counties grow, it puts school districts in a tough position especially since now they have to deal with class size requirements. She asked how this can be fixed.

Mr. Smith said infrastructure funding is part of the discussion. Cities get a negative reaction when they raise impact fees or special assessments. The goal is to get all the interested parties together to work this out – who's paying for the growth, how and when.

Senator Constantine said school districts seem to influence growth. Growth management laws are not a panacea. The 1984 Act didn't make its impact until the 1990's. The 2002 bill is just being felt now. It was clear during the 2001-02 debate that the House didn't like the idea of letting local governments increase taxes without a referendum. He asked Mr. Smith what has changed to lead the League to believe that it will go through now.

Mr. Smith responded that if everyone can hold a tax referendum, it makes everyone too competitive. Too many referenda come up. If local governments can get citizens involved up front, and get planning done together, there is a potential that the bar could be lowered for passing a local option tax. He did not know if there were enough votes in the House to allow passage of such a proposal.

Wayne Blanton of the Florida School Boards Association, stated that school crowding is a problem, but there are others. Boards don't like to find out when a development is already approved, and the school has not heard about it yet. At the front end of the process, especially for a large development, developers should have to go in front of the affected school system, city and the county before a plan is permitted and approved. Officials need to talk more to each other. There needs to be a distinction between school infrastructure as opposed to other costs of getting a school up and running, such as roads, sidewalks, traffic lights, sewers, etc. Also, the Legislature will need to decide if it wants full concurrency or concurrency "light." Perhaps degrees of concurrency need to be addressed. Finally, the approval process needs to be streamlined, not just for developers, but for local governments, too. Mr. Blanton added that in a way, schools are developers, but they need to include others to address infrastructure needs.

Mr. Greer stated that there are 12 to 16 high growth school districts in the state. Schools in these areas need to be involved in the planning of development up front and have viable timelines.

### **Preliminary Overview on Local Government Fiscal Capacity Interim Project**

This agenda item was deferred until the next LCIR meeting.

### **Draft Intergovernmental Impacts Report**

Kay Pelt presented the draft Intergovernmental Impact Report. The report complies with s. 11.70, F.S. She noted that LCIR staff identified all local impacts, not just those subject to the constitutional definition of a mandate. The report states that there were 478 laws passed during the 2004 Regular Legislative Session and 12 during Special Session A, which were not subsequently vetoed by the Governor. Of these 490 laws, LCIR staff identified 76 laws with 103 provisions that impact counties or municipalities. The report was approved unanimously and will be printed and forwarded to legislative leadership, as required by law.

### **Discussion of Committee Priorities for 2005-06**

Senator Jones asked to add permitting of marina docks to the project list. There is duplication by the Water Management Districts, Department of Environmental Protection, the Army Corps of Engineers and other entities.

Senator Lynn mentioned that waterfront properties are being developed and the state is losing boatyards. She inquired whether the committee could look at the state's level of boatyard facilities.

Representative Taylor suggested the committee look at permitting and the location of ports. She indicated that local governments need greater involvement in this area.

Representative Hasner noted that also behind Tab 6, after the proposed interim project suggestions, was a description of the Natural Disaster Preparedness Proposal Interim Project. This is a comprehensive list of issues – from pre-disaster preparations to relationships with FEMA. This is an important issue in the future. He is looking forward to staff looking into this.

Two interim projects from 2004-05 would be continued, due to their size and scope. The first is the Local Government Fiscal Capacity Report, and the second is the Federal Funds Survey.

### **Concluding Remarks**

Representative Hasner said that the Committee is very thankful that Ms. Hosack has agreed to stay on as long as she has, which is beyond her original departure date. He added the Committee is certainly sorry to see her go.

Senator Lynn said that having worked with Marsha for several years, she believes Marsha is one of the most knowledgeable staff members in the Legislature, and though sorry to see her go, wishes her well.

Representative Hasner concurred and on behalf of the Committee wishes her well in her future endeavors and her new home in southwest Florida. Representative Hasner commended Marsha for her contributions to the Legislature.

Representative Hasner said that if a new Executive Director is selected soon, it is likely that there will be an LCIR meeting during session.

There will be a meeting in May or June in Palm Beach County. At that meeting the committee will prepare its final interim project list for those projects to be completed during Senator Jones's chairmanship.

The meeting was adjourned at 4:35 p.m.