

# Legal battle over growth law leaves hope alive for developers

## Newer law keeps some elements of SB 360 intact

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STAFF WRITER

Hope is not lost for businesses and developers trying to keep planned projects alive amidst growth management conflicts and economic cycles.

A Tallahassee circuit judge recently struck down what is known as Senate Bill 360, which was supposed to encourage growth and economic development. But now, a newer state law preserves some parts of the invalidated bill that are among the most important for businesses.

In a case closely watched by a wide range of business interests, it is also likely the judge's decision that SB 360 is an "unfunded mandate" eventually will be appealed, according to several lawyers.

Passed in 2009, SB 360 exempted developments in certain dense urban areas, such as St. Petersburg, from transportation concurrency and from the Development of Regional Impact review, which is a lengthy and often expensive process, and required cities to develop new comprehensive plans.

The law also extended some development orders and permits for two years.

"The exemptions and permit extensions are what's most important to the private sector," said Gina Grimes, a shareholder in the land use and real estate groups at Hill Ward Henderson law firm in Tampa.

Grimes and Morris Massey, another shareholder in the firm's real estate and land use groups and a former city of Tampa assistant attorney, are advising affected clients to take advantage of provisions in a law passed by the 2010 Florida Legislature regarding exemptions and permit extensions.

### BACKUP PLANS

Basically, the legislators "tried to soften the blow to most developers" in case the law from a year earlier was struck down. Grimes said. The 2010 legislation — SB 1752 — re-adopted the exemption from DRI review and reworded the two-year extension.

"As far as most of our clients who availed themselves of the two-year extension, we recommend they request that again under the 2010 legislation," Grimes said.

Because of the uncertainty regarding SB 360 and the complaint challenging it, most developer clients with project DRIs kept them in place, although not many projects now rise to the threshold of needing such extensive development review, Massey said.

The SB 360 controversy actually put businesses on guard instead of encouraging economic development.

"Developer clients want dependability," said T. Truett Gardner, a partner Gardner Brewer Martinez-Monfort whose practice focuses on real estate and land use. "There was no level of dependability."

For expanding or relocating companies, the controversy could taint decisions about site selection.

### 'RISK FACTOR' FOR BUSINESSES INCREASED

John Rhodes, senior principal at Moran Stahl & Boyer site selection consultants in Lakewood Ranch, warned that "noise in the media" over such issues increases the risk factor for a business and definitely is considered in a site evaluation.

"It's a category in our business environment review," he said. "It's an important one that integrates laws and attitudes. There are low noise level issues and long-term trend issues."

The state's various growth management controversies mean low marks on business environment, Rhodes said.

In St. Petersburg, where Jabil Circuit, one of the Bay area's largest public companies, was in the process of opting out of the DRI process for its planned \$54 million headquarters complex when SB 360

was invalidated, there's worry about the perception of the business environment.

"People think what in the world is going on down there in Florida," said Dave Goodwin, St. Petersburg's economic development and planning director. "We need clarity. It is a problem for companies and municipalities to operate in such uncertainty."

Jabil, which did not respond to numerous requests for comment, will continue with its plan to pursue a development agreement with the city instead of a DRI review requiring more expensive transportation

improvements, Goodwin said.

The company received commitments from the city, county and state for nearly \$34 million in incentives two years ago to build its new headquarters on 84 acres in the Gateway area and provide 850 jobs. Construction has not started, and Jabil is trying to get extensions on incentives.

"We will support them in getting extensions," Goodwin said. "They are going forward with the project."

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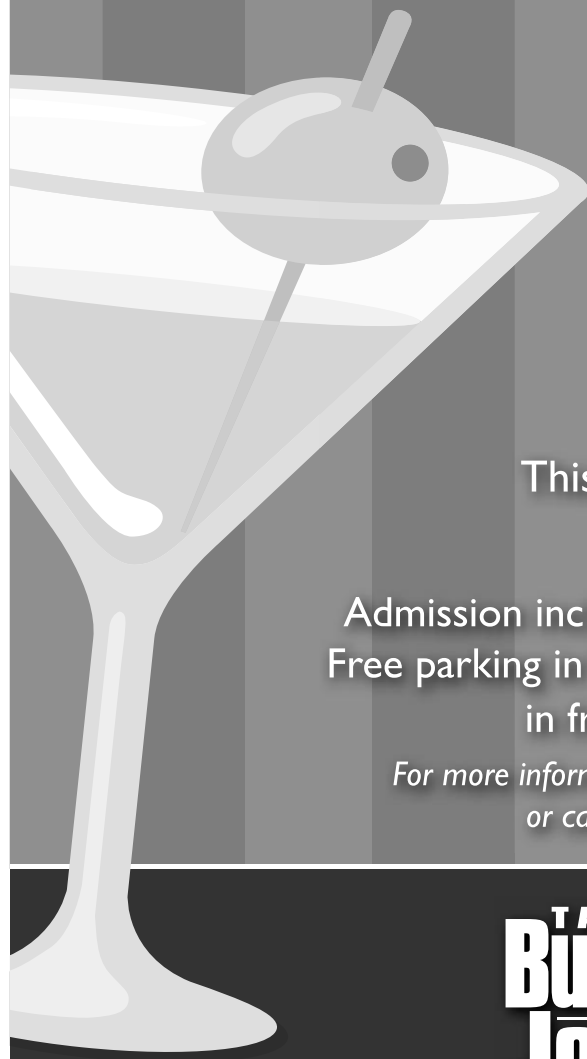
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