at the appeal hearing, which shall be public. All testimony shall be under oath.

Section 3. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.

#### CHAPTER 97-351

### House Bill No. 1285

An act relating to the Hillsborough County City-County Planning Commission; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; conforming terminology and improving clarity; deleting provisions that have had their effect; deleting provisions duplicative of chapter 163, part II, F.S., relating to comprehensive planning; providing notice with respect to the effect of the Hillsborough County Charter; providing notice with respect to duties and responsibilities prescribed by chapter 163, part II, F.S.; amending special requirements for local governments and providing an exception; providing for review and recodification; repealing chapters 78-523, 81-392, and 82-303, Laws of Florida, relating to the Hillsborough County City-County Planning Commission, chapters 75-390, 77-564, 83-421, 84-442, and 86-407, Laws of Florida, relating to the Hillsborough County Local Government Comprehensive Planning Act of 1975, chapters 67-1507, 75-399, and 77-566, Laws of Florida, relating to review of the capital improvements budgets of local governments by the Hillsborough County City-County Planning Commission, and chapters 94-406 and 96-517, Laws of Florida, relating to the requirement for performance audits of the Hillsborough County City-County Planning Commission; providing a saving clause; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Legislative intent.—It is the intent of the Legislature that this act supersede chapter 78-523, Laws of Florida, which provides for the establishment of the Hillsborough County City-County Planning Commission, and acts amendatory thereof, and shall be deemed a codification of previously existing legislation relating to the Hillsborough County City-County Planning Commission. It is the further intent of the Legislature that this act supersede chapter 75-390, Laws of Florida, as amended, which creates the Hillsborough County Local Government Comprehensive Planning Act of 1975, transferring duties relating to the Hillsborough County City-County Planning Commission to this act and repealing language otherwise duplicated in part II of chapter 163, Florida Statutes. It is also the intent of the Legislature that this act supersede chapter 67-1507, Laws of Florida, as

amended, relating to the review of the capital improvements budgets of Hillsborough County and its municipalities by the Hillsborough County City-County Planning Commission. It is further the intent of the Legislature that this act supersede chapter 94-406, Laws of Florida, as amended, relating to the requirement for a periodic performance audit of the Hillsborough County City-County Planning Commission. Said codification is also a reviser, deleting provisions which have expired, have had their effect, have served their purpose, or have been impliedly repealed or superseded; replacing incorrect cross references and citations; correcting grammatical, typographical, and like errors; removing inconsistencies, redundancies, and unnecessary repetition; and improving clarity and facilitating correct interpretation.

## Section 2. Planning commission; creation; responsibilities.—

- (1) There is created the Hillsborough County City-County Planning Commission, referred to in this act as the commission, for the purpose of conducting continuous planning and making recommendations to the Board of County Commissioners of Hillsborough County, the municipalities in Hillsborough County and other appropriate public bodies concerning the orderly growth and development of Hillsborough County.
- (2) The commission is the single local planning agency for Hillsborough County and its municipalities as prescribed in Section 9.09 of the Hillsborough County Charter, approved by referendum in September 1983, and has the duties and responsibilities prescribed by part II of chapter 163, Florida Statutes, for any such local planning agency and as further prescribed by this act, including:
- (a) To prepare, monitor, evaluate, and update the comprehensive plan and make recommendations to each governing body regarding the adoption of such plan or element and any amendments thereto.
- (b) To recommend to each governing body techniques, methods, and programs to implement the comprehensive plan.
- (c) To utilize a process which will ensure that citizens in local communities and neighborhoods can initiate and participate in the development and implementation of the comprehensive plans.
  - (d) To hold public hearings and sponsor public forums.
- (e) To perform other planning services and ongoing technical planning assistance in addition to that agreed upon in the commission's annual work program, upon request of Hillsborough County or any of its municipalities, subject to work program, staff, and budget limitations.
- (3) "Local planning agency" and other terms used in this act shall be defined in the same manner as such terms are defined in part II of chapter 163, Florida Statutes.

# Section 3. Governing body; meetings.—

- (1) The commission shall be constituted as follows:
- (a) Four members appointed by the Board of County Commissioners of Hillsborough County.
  - (b) Four members appointed by the City Council of the City of Tampa.
- (c) One member appointed by the governing body of each additional municipality.
- (d) Each member shall serve for a term of 4 years or until his or her successor has been appointed as provided herein. A majority of the members of the commission shall constitute a quorum. Any vacancy in the membership of the commission shall be filled for the unexpired portion of the term in the same manner as an appointment for a full term.
- (e) The commission shall elect one of its members as chair who shall serve for 1 year or until his or her successor is elected.
- (f) The commission shall meet at least once each month at the call of the chair and at such other times as the commission may determine.
- (g) The members of the commission shall serve without compensation but shall be entitled to be reimbursed for necessary travel and other expenses incurred in the work of the commission.
- (2) Meetings of the commission are public meetings and its records are public records.
- Section 4. Powers.—In addition to the duties and responsibilities prescribed in part II of chapter 163, Florida Statutes, the commission has the power to:
- (1) Maintain an office at such place or places within Hillsborough County as the board of county commissioners may designate.
- (2) Make and adopt bylaws and rules by a two-thirds majority vote of the total membership for its transaction of business and orderly meeting of its responsibilities, including establishing attendance standards, a violation of which shall authorize the commission to declare a position vacant whereupon the appropriate governing body shall appoint a new member.
- (3) Appoint an executive director, who shall serve at the pleasure of the commission.
- (4) Provide for the hiring of such other employees in conformance with the regulations of the Hillsborough County Civil Service System respecting personnel as necessary to perform the duties prescribed by this act.
- (5) Review prior to adoption all long-range plans and master plans and any amendments thereto proposed by the Tampa Sports Authority, the Hillsborough County Aviation Authority, the Tampa Port Authority, the Florida State Fair Authority, the Hillsborough County Expressway Authority, the Hillsborough County Hospital Authority, the Hillsborough Area

Regional Transit Authority, or other authority exercising planning or land development powers, and make a recommendation to that authority as to the consistency of such plan or amendment with the adopted comprehensive plan or element or amendments thereto.

- (6) Make and enter into contracts and agreements.
- (7)(a) Accept and expend funds and grants from and accept and use services from the Federal Government and its agencies, the state government and its agencies, a county government and its agencies, any municipalities in Hillsborough County, the Tampa Bay Regional Planning Council, and private or civic sources, with all receipts of the commission paid to the board of county commissioners and deposited in the general revenue fund of Hillsborough County.
- (b) Expend funds, exclusive of gifts to the commission or contract receipts, within the amounts appropriated for the purpose by the Board of County Commissioners of Hillsborough County.
- (c) Withdraw funds only upon requisitions approved by the chair of the commission and make necessary expenditures for equipment and supplies, and for carrying out the purpose of this act.
- (d) Make an annual report of its receipts and disbursements to the board of county commissioners and each of the participating municipalities.
- (8) Perform all other acts necessary to accomplish the purposes of this act.

## Section 5. Special requirements; local governments.—

- (1)(a) In addition to the notice requirements provided by general law, if a proposed future land use element or amendment thereto involves less than 5 percent of the total land area of the local government unit, the governing body shall direct the clerk of the governing body to notify by mail each real property owner the use of whose land the governing body will alter by enactment of the proposal and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposal as it affects that property owner and shall set forth the time and place of the scheduled public hearings to be held by the governing body on the proposal. Such notice shall be mailed at least 30 days prior to the date set for the first public hearing by the governing body. A copy of such notice shall be kept available for public inspection during regular business hours in the office of the clerk of the governing body.
- (b) The procedure for amendment of an adopted comprehensive plan shall be as provided by general law and this act.
- (c) After a comprehensive plan, or element or amendments thereto, has been adopted for Hillsborough County or one of its municipalities, no land development regulation, land development code, or amendment thereto may be adopted by the governing body until such regulation, code, or amendment has been referred to the commission for review and recommendation as to

the relationship and consistency of such regulation, code, or amendment with the adopted comprehensive plan or element or amendments thereto. The commission and the governing body shall establish procedures for referral and recommendation. A recommendation shall be made by the commission within the time provided in the established procedures. However, if no recommendation is so made, then the governing body may proceed to act on the adoption of the regulation, code, or amendment. The time of reference shall be determined as provided in the procedures for referral and recommendation established by the commission and the governing body. Notwithstanding the foregoing, recommendations on rezoning in the City of Tampa shall be made no later than the time of the scheduled public hearing on the rezoning petition.

- (2)(a) The Legislature recognizes that public capital improvements have a vital relationship to the degree and direction of community development within Hillsborough County and its municipalities and that their cost is a sizable part of all public expenditures within their jurisdictions. Capital improvements projects must be efficiently planned, budgeted, and related within an overall program for the benefit of the taxpayers. A capital improvements budgeting and priorities program by each local government must:
- 1. Provide a means whereby projects will be carried out in accordance with both predetermined priorities and the ability of the community to pay.
  - 2. Protect against the influence of special interest groups.
- 3. Provide a means for anticipating and scheduling major expenditures so that local governments can maintain a sound financial standing and a balanced program of bonded indebtedness.
- 4. Schedule the timing of projects so as to make the best and most of economical use of large pieces of equipment and of personnel.
- 5. Allow department heads as well as local governmental officials to better anticipate the capital needs of their agencies over a period of years.
- 6. Allow sufficient time for proper technical design of the proposed public improvements.
- 7. Permit the advance acquisition of land needed for improvement by purchase in a favorable market or the retention of unused public lands.
- 8. Permit residents of Hillsborough County and its municipalities to better understand their community needs and the plans of their officials for meeting them.
- 9. Promote efficiency and economy through sound long-range financial planning to complement existing land use planning.
  - (b) As used in this section:
- 1. "Capital improvements" means those projects requiring the expenditure of public moneys for the acquisition of land or property, the construction

of any building, structure, work or improvement, including, but not limited to, the widening, extension, or relocation of any road, street, or public way, the expansion of any building or structure so as to increase or change its basic use or function, and the improvement of any park, open area, or other public place.

- 2. "Fiscal officer" means the clerk of the circuit court or his or her designated deputy for Hillsborough County, the Comptroller for the City of Tampa, the City Clerk for the City of Plant City, and the Director of Finance and Administration for the City of Temple Terrace.
- 3. "Executive authority" means the Board of County Commissioners of Hillsborough County, the mayor of the City of Tampa, and the city managers for the cities of Plant City and Temple Terrace.
- 4. "Legislative body" means the Board of County Commissioners of Hillsborough County, the council for the City of Tampa, the commissioners for the City of Plant City, and the council for the City of Temple Terrace.
- (c) The legislative body of Hillsborough County and the legislative body of each municipality therein shall annually adopt a separate budget or a separate section within its respective annual budget to be known as the capital improvements priority budget. In addition to the designation of capital improvement projects, said budget shall contain a tentative estimate of the cost of such projects and the estimated sources of revenues necessary to finance each. With respect to Hillsborough County, this section shall be supplemental to s. 129.02(4), Florida Statutes, and the board of county commissioners shall adopt this budget as a consolidated budget and not a budget for the several districts.
- (d) On or before February 15 of each year, the executive director or his or her staff designees of the commission shall meet separately with the county administrator or his or her designees and with the fiscal officer or the designees of each municipality in Hillsborough County to assist in developing a proposed annual capital improvements budget and a proposed 5-year capital improvements program which conforms with the adopted comprehensive plans and are coordinated with the adopted plans of the adjacent counties and municipalities. The proposed capital improvements budget and proposed 5-year capital improvements program must include a priority system prepared by the county administrator and the fiscal officers of each municipality or their designees. The proposed capital improvements budget and proposed 5-year capital improvements program must be submitted by the county administrator and the fiscal officers to the respective executive authorities on or before June 1 of each year.
- (e) Each executive authority shall review the proposed capital improvements budget and proposed 5-year capital improvements program and shall submit same to the commission with comments, notes, lists of priorities, and other information relating to the capital projects proposed for each of the affected years; the proposed method of financing each; and comment as to the effect on the debt structure of the county or municipality. Said documents must be submitted to the commission by July 1 of each year.

- (f) The commission shall submit to the Board of County Commissioners of Hillsborough County by August 15 of each year and to each executive authority of the Cities of Tampa, Plant City, and Temple Terrace by August 1 of each year, its report and recommendations on the proposed capital improvements budget and proposed 5-year capital improvements program for each.
- (g) Each executive authority of each municipality in Hillsborough County shall review the capital improvements budget as then compiled, together with recommendations of the commission, and each shall submit a recommended final budget to its respective legislative body by August 15 of each year.
- (h) The legislative body of each municipality, after holding an advertised public hearing upon its respective budget, shall adopt, with or without amendments or revisions, said capital improvements budget and the proposed projects and means of financing each within 30 days after having received such proposed budgets from its executive authority. Final approval of each capital improvements budget shall be made by October 1 of each year.
- (i) This section is supplemental to any existing law relating to budgetary procedures for Hillsborough County and each of its municipalities.
- (3) The City of Plant City is exempt from the provisions of subsections (1) and (2).
- Section 6. Special requirements; other entities.—The Tampa Sports Authority, Hillsborough County Aviation Authority, Tampa Port Authority, Florida State Fair Authority, Hillsborough County Expressway Authority, Hillsborough County Hospital Authority, the Hillsborough Area Regional Transit Authority, and any other authority exercising planning or land development powers shall submit to the commission its long-range and master plans and cooperate with the commission by providing such data and information to the commission as it may require to implement its duties and responsibilities hereunder.
- Section 7. Performance audits required.—The commission is subject to a performance audit every 4 years, with the first of such audits having been completed April 30, 1996, as follows:
- (1) For purposes of this act, the performance audit, which shall be conducted in accordance with Government Auditing Standards as promulgated by the United States Comptroller General, shall contain the following components:
- (a) An appraisal of management performance, including the effectiveness of administration and the efficiency and adequacy of the program the entity is authorized by law to perform.
- (b) An assessment of adherence to general and special law and any rules promulgated thereunder.

- (c) Recommendations for changes required in general or special law which, if enacted, would enhance the efficiency and effectiveness of the program.
- (d) An examination and evaluation of alternative methods of providing program services or products more efficiently and effectively.
  - (e) The adequacy of operating controls and operating procedures.
  - (f) An assessment of relations with employees and the public generally.
  - (g) A copy of the response received pursuant to subparagraph (3)(b)3.
- (2) The audit may not be performed by any agency of state or local government, with the exception of the Auditor General of the State of Florida as provided by general law. However, nothing in this act shall be construed to prohibit other audits authorized by law.
- (3)(a) In contracting for the audit, the governing board of the commission shall utilize standard procedures for any public body when contracting for professional services, including, but not limited to:
- 1. Public announcement, in a uniform and consistent manner, when auditing services are required to be purchased, a general description of the audit, and an indication of how interested parties may apply for consideration;
- 2. Adoption of procedures for the evaluation of professional auditing services, including, but not limited to, capabilities; adequacy and ability of professional personnel; past record; experience; basis for fees; ability to meet time requirements; and such other factors as may be determined by the commission to be applicable to its particular requirements.
- 3. Making a finding that the firm or individual to be employed is fully qualified pursuant to the adopted evaluation procedures.
- (b) The contract shall be evidenced by a written document embodying all provisions and conditions of the procurement of such services, which shall include, but shall not be limited to:
- 1. A provision that bills for fees or other compensation for services or expenses be submitted in detail with supporting documentation sufficient for a proper preaudit and postaudit thereof.
- 2. A provision that bills for any travel and per diem expenses be submitted in accordance with s. 112.061, Florida Statutes.
- 3. A provision that, at the conclusion of the audit, the entity conducting the audit shall discuss the audit with the chair of the commission, and submit to that person preliminary audit findings, including relevant supporting documentation, which may be included in the final audit report. If the chair is not available for receipt of the audit findings, with any adverse findings clearly designated as such, then delivery thereof is presumed to be made when it is delivered to the commission's executive office. The chair

shall submit to the entity conducting the audit, within 60 days of receipt of the preliminary findings, his or her written response concerning all such findings, including corrective action to be taken to preclude a recurrence of any adverse findings. Thereafter, a final audit report shall be issued which shall include the chair's response and any rebuttal thereto by the entity conducting the audit.

- 4. A provision that those workpapers necessary to support the conclusions in the final audit report shall be retained by the entity conducting the audit for a period of 2 years following delivery of the final audit and shall be made available to the commission upon a vote of the majority of the governing board of the commission. The audit report, when final, shall be retained by the commission pursuant to chapter 119, Florida Statutes.
- 5. A provision that, upon completion of the audit, sufficient copies shall be filed with the Office of the Hillsborough County Legislative Delegation for distribution to members of the delegation and that sufficient copies be provided to the commission to meet anticipated public demand for copies of such audit.
- (c) In the event the audit is to be paid for by the Board of County Commissioners of Hillsborough County as provided herein, the contract document may not be executed without the advice and consent of the board, although the board may not unreasonably withhold confirmation.
- (4) Funds shall be appropriated by the Board of County Commissioners of Hillsborough County for payment of costs incurred in connection with such audit. The commission shall request the estimated funding required for the audit in accordance with county budgeting procedures in a manner that will assure funds will be appropriated for that purpose during the fiscal year in which the audit is to be completed.
- (5) In the event the Hillsborough County Board of County Commissioners has ordered a performance audit pursuant to general law by any appropriately qualified entity not a part of county government which was completed within 2 years prior to April 30 of the year the performance audit herein is to be completed, or which will be completed within 3 months after April 30 of the year the performance audit herein is to be completed, and the audit contains the mandatory components contained in subsection (1), that audit may be used to fulfill the requirement for the performance audit. In the event an audit so ordered is to be submitted to fulfill the requirements of this act and will be completed after the April 30 deadline, the commission shall notify the Office of the Hillsborough County Legislative Delegation by April 30 that the audit will be so delayed, the reason for the delay, and the date it will be delivered, which date shall not be later than July 31 in the year in which the audit is due.
- (6) One year from the date of the final audit report, the chair of the commission shall submit to the Office of the Hillsborough County Legislative Delegation a written statement of the status of recommendations contained in the audit report.

Section 8. Recodification.—Prior to July 1, 2006, and prior to July 1 every 10 years thereafter, the Hillsborough County Legislative Delegation shall review this act for the purpose of determining whether there is a need for consolidating, compiling, revising, and recodifying such acts. If it is determined there is such a need, the delegation may require the planning commission to prepare or cause to be prepared legislation necessary for that purpose.

- Section 9. Severability.—If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.
- Section 10. (1) Chapters 67-1507, 75-390, 75-399, 77-564, 77-566, 78-523, 81-392, 82-303, 83-421, 84-442, 86-407, 94-406, and 96-517, Laws of Florida, are repealed.
- (2) The repeal of said chapters does not affect the prosecution of or the continued prosecution of any cause of action that accrued before the effective date of the repeal.

Section 11. This act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.

### CHAPTER 97-352

## House Bill No. 1291

An act relating to Brevard County; creating the "City of Suntree Charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a city council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the mayor and council; providing for a city manager, city clerk, and city attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions and for handling finances; establishing fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amend-