

## Growth law challenge leads to recommendation to clarify "unfunded mandates"

Bruce Ritchie

A Senate committee is recommending that the Legislature clarify a phrase in the Florida Constitution that has played a key role in a recent local government law challenge.

The Constitution limits the Legislature's ability to enact laws that are considered mandates on local governments. The Constitution requires a two-thirds vote by the Legislature for mandates with some exceptions including laws which have an "insignificant fiscal impact."

The Legislature has interpreted insignificant fiscal impact as being 10 cents per person within a defined jurisdiction. A year ago, a circuit judge in Tallahassee struck down the SB 360 growth law changes in 2009 after he determined that the amount spend by local governments to comply with the law would not be insignificant.

The lower court ruling was overturned earlier this year by the 1st District Court of Appeal. And the Legislature went on to rewrite the law and make other significant growth law changes.

Still, the ruling created a need to clarify state law, according to the Senate Committee on Community Affairs staff. The interim report issued last week says the Legislature should write the 10 cents per person interpretation into statute.

A spokeswoman for the Florida Association of Counties said her group appreciates the recommendation. While clarification won't solve all the issues involving "unfunded mandates" it will "certainly help" reduce litigation, said Cragin Mosteller, the association's communications director.

Susan L. Trevarthen, a Fort Lauderdale attorney who represented Weston and other cities which challenged SB 360 in 2009, agreed on the merits of the recommendation. But she said legislators will be creating a "slippery slope" if they allow the value of benefits of legislation to be weighed against the costs to cities, which she said are struggling against unfunded mandates.

"Mandates from other levels of government don't help when you are trying to dig yourself out of a hole and there are limits (on raising revenue)," Trevarthen said.