The health of Florida Bay, which lies between the mainland and the Florida Keys, is dependent on the health of the rest of the Everglades.

On the afternoon of June 2, with a flick of a pen but no fanfare at all, Florida Gov. Rick Scott rolled back 25 years of growth management in the Sunshine State.

It was a quiet revolution. Along with 47 other bills covering everything from overhauling educational vouchers to cracking down on saggy pants in schools, Scott signed into law HB 7207, a bill that upended the basic tenets of the state's landmark...
Florida Meltdown

Hard times in a state that pioneered growth management.

By Craig Pittman

1985 Growth Management Act.

In addition, Scott vetoed $2.5 million for the state’s regional planning councils, prompting the council that reviews development in Southwest Florida to lay off its three most senior planners. Meanwhile, pink slips were going out to employees of the state agency in charge of growth management, the Department of Community Affairs.

Since its inception, state officials had mostly regarded the DCA as an essential safeguard against the runaway growth that damaged the state in the 1960s and 70s—the traffic cop pulling over reckless drivers on the highway to Florida’s future. Using its power under the Growth Management Act, the DCA oversaw and sometimes intervened in the efforts of Florida’s 67 counties and 410 municipalities to prepare plans for dealing with new development.

No more. Under the budget Scott approved, the DCA was cut down to a sliver of its former self. Its remnants have been swallowed up by a new agency designed to promote, not control, growth, the Department of Economic Opportunity. What’s left of the old DCA has become the Division of Community Development, where its duties are limited to “local government planning assistance.”
The Bright Side

After the passage of Florida's Community Planning Act this June, early reports out of Tallahassee were dire. The media forecasted a return to the urban sprawl of the 1960s and '70s, and some environmentalists warned of ecological Armageddon. As a community planner specializing in large-scale developments and a former county planning director whose career in the private sector spans both the creation and the rollback of the 1985 law, I respectfully disagree. I believe we now have a chance to correct an unintended error and move Florida forward in a more thoughtful and visionary way.

I have seen, firsthand, how the growth management process actually encouraged the sprawl it was supposed to prevent, by creating a process that failed to distinguish between quality and quantity. That process made it more profitable for large landowners to upzone small parcels of land and to develop them off piecemeal, rather than run the bureaucratic gantlet of a state review for a larger planned community. The result was the proliferation of small, walled subdivisions pouring hundreds of cars a day onto increasingly dangerous arterial roads.

Even the head of the East Central Florida Regional Planning Council, the organization responsible for reviewing developments of regional impact in metropolitan Orlando, called for many of the reforms ultimately incorporated in the new law. Of particular concern was the vexing of development rights, which allowed speculators to increase the value of property without building a single house or office building, simply by getting the zoning changed.

What we need now is not a process, but a planning tool, one with enough flexibility to let local governments, land owners, planners, environmental advocates, citizens, and community leaders work together to develop livable, sustainable places that will become the great communities of tomorrow.

Some provisions in the new law give me reason for hope. Chief among them is the elevation of large-scale sector planning from pilot program to accepted practice. As the planning director in Orange County during the late 1990s, I had the good fortune to work on the county's sector plan, Horizon West, which was the first sector plan in the state. Since then, I have worked on three of only four such plans approved during the 10-year pilot phase, as well as a similar regional vision for Taylor County.

A sector plan differs from other growth management tools in that it is a timeless plan in the tradition of Daniel Burnham's plan for Chicago and Pierre L'Enfant's layout of Washington, D.C. Such a plan covers thousands of acres and might include any number of smaller projects that would be developed over time, as demand required, in accordance with the master plan. However, instead of each development being forced to shoehorn in a laundry list of public services, projects would be designed to conform with a sector plan, with development arranged to minimize environmental impact.

By decoupling planning from the finer details of the regulatory process, and pushing the planning horizon out 30 to 50 years, sector plans allow communities to lay the foundation for our frontiers with the same care that we put into our urban centers. This kind of ultra-long-term, multigenerational planning not only gives local governments the lead time they need to expand their infrastructure, but it invites the entire community to decide how it wants to grow, years in advance of actual development.

Human nature being what it is, the success of sector plans will depend on each community's ability to devise a system that makes economic as well as intellectual sense. It will also require political and popular resolve to honor the plan over time, and not abandon it at the first test of wills.

Florida's sins are well-documented. But the success of urban infill projects such as Baldwin Park in Orlando, and self-contained communities such as Avalon Park in East Orange County, have demonstrated the market demand for well-planned villages in natural settings. And as much as we'd like to think we can bend growth to our will, we can't.

Now, as in 1985, Florida is at a crossroads, but I see reason for hope, and many of the planners I know feel the same way. For the first time in a long time, Florida has put the "plan" back in planning.

James A. Sellen

Sellen is the executive vice president of planning and design at VHB MillerSellen in Orlando, Florida.
The DCA blocked a proposal to build a hotel-condo-marina complex that would have required dredging a two-mile channel through an aquatic preserve. The site and channel are outlined in magenta.

all that bad. It was just unwilling to cut deals on enforcement of the law. Lobbyists made it into a boogeyman as a way to persuade legislators to loosen or abolish rules that he says drive up builders’ costs.

“DCA isn’t evil,” Bishop adds. “They didn’t do a bad job across the board. It’s that they were just a more difficult agency for the growth community to deal with than they had to be.”

Too tough?
But being tough was the point, say disappointed environmental and civic activists. The DCA, in enforcing the Growth Management Act, was supposed to be a watchdog. It was there to protect the taxpayers from the consequences of runaway sprawl.

During former Gov. Charlie Crist’s recent term, for instance, the DCA blocked such controversial projects as the mammoth Wiregrass Ranch development north of Tampa, a development in the state’s sparsely settled Big Bend area proposed by St. Petersburg surgeon J. Crayton Pruitt, and a big subdivision on a barrier island in the Panhandle.

The DCA objected to the 5,000-acre Wiregrass Ranch development—which promised 12,000 housing units, three elementary schools, and enough stores to fill two major shopping malls—because Pasco County government officials had failed to nail down road improvements that would accommodate all that growth. In the end, though, they cut a deal.

In the Big Bend region, Pruitt proposed building a massive hotel-condo-marina complex with a channel dredged through a state aquatic preserve. Taylor County officials, to accommodate him, proposed making a series of small changes to their growth plan, thus avoiding a review by the DCA that they figured might not go well. The agency said this was bending the rules and sued. To mollify DCA, Pruitt dropped the marina and channel. He’s still working on getting permits for the rest.

And in Pensacola, Escambia County officials voted to allow 6,000 new residences on a narrow barrier island called Perdido Key, nearly doubling the number of people living in a place flattened by Hurricane Ivan in 2004. The DCA said no because the county hadn’t come up with money to widen the island’s main road for hurricane evacuation, nor had it planned any sewer expansion. County officials withdrew the proposal.

All of those projects would have proceeded without fully addressing their impacts had the new law been in effect then, because DCA would have been powerless to stop them.

Too lenient?
Meanwhile, though, the DCA approved nearly 600,000 housing units between 2007 and 2010, the time when Bishop said it was being so disagreeable.

One group of activists, thinking the DCA too lenient, in 2003 mounted a petition drive called Florida Hometown Democracy to let the voters in each community have the final say on changes in their local growth plans. They finally got the measure on the ballot for a vote in 2010, but a well-financed opposition campaign, spearheaded by Ryan Houck, persuaded the state’s voters to reject it by a large margin last year.

Florida Hometown Democracy was so disliked by lawmakers and business interests that, among other provisions in the new growth law that Gov. Scott recently signed, they banned any local government from holding its own referendum vote on a growth plan change.
The rejection of Florida Hometown Democracy and the crippling of the DCA now puts the entire burden of planning for growth directly on the shoulders of local governments, many of them in the process of cutting their staffs because of the ongoing economic slump.

To Nathaniel Reed, who served as assistant Secretary of the Interior under Presidents Nixon and Ford and now is chairman emeritus of 1,000 Friends of Florida, the lack of state oversight will lead to rampant corruption among county officials ready to collect payoffs in exchange for changing their comp plans. “Get the prisons ready,” Reed says. “I can only hope this will ignite a fire across this state, so the people will know what’s been taken from them.”

He predicts that local officials, eager to boost their tax base at any cost, will kowtow to developers’ every whim. He warns of what he calls a “stealth tax increase” as the hidden costs of dealing with runaway growth—the clogged roads and schools, the overburdened water and sewer lines—wind up being dumped on the taxpayers, not the developers.

Other views
However, Merle Bishop, FAICP, senior planner for Kimley-Horn and Associates and president of the Florida Chapter of APA, says that while the changes are a “reason to be concerned, and perhaps pessimistic,” he hopes that most local governments will be able to enforce growth limits even without DCA looking over their shoulders. After all, the law still requires them to have comprehensive plans.

“I am optimistic and believe that most local governments, particularly in urban areas of the state, are up to the task and will maintain their comprehensive plans, including maintaining concurrency for transportation, parks, and schools,” Bishop says. “This may be more of a concern with small, rural local governments that have limited or no planning staff and limited resources.”

In fact, there are at least 32 rural local governments around the state that have few or no planners on their staffs at all, according to DCA figures. Those governments routinely sought help in meeting their legal requirements from the DCA and their regional planning councils—help that may no longer be available to them.

Ironically, the bill that changed Florida’s growth management rules came from someone who is herself a former DCA secretary: Linda Shelley, now a lobbyist for the Florida Association of Community Developers and chairwoman of Associated Industries’ council on growth management. She contends that Reed and all the other critics are wrong about what will happen now that the bill she wrote has passed and been signed into law.

“Just because there’s not a vigorous traf-

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**Florida’s Modern Planning History—In Brief**

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<td><strong>1970</strong> Work is halted on the Collier Dade International Airport in the middle of the Everglades.</td>
<td><strong>1973</strong> Florida’s first DRI—Windsong, a 2,450-acre development in Orange County—is approved.</td>
<td><strong>1985</strong> Growth Management Act (officially the Local Government Comprehensive Planning and Land Development Regulation Act) adopted, requiring local governments to adopt future land-use maps; measurable levels of service standards for roads, parks, potable water, sanitary sewer, drainage, solid waste, and aquifer recharge; and a five-year capital improvement element. State planning agency (the reorganized Department of Community Affairs) delegated to prepare rules to govern the review of local government plans.</td>
<td><strong>1990</strong> Gov. Bob Martinez signs the Preservation 2000 Act, authorizing the expenditure of $3 billion over 10 years to acquire conservation lands.</td>
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<td><strong>1971</strong> President Richard Nixon stops work on the Cross Florida Barge Canal.</td>
<td><strong>1974</strong> Legislature adopts State Minimum Building Code, requiring local adoption, amendment, and enforcement of state-selected model codes.</td>
<td><strong>1986</strong> DCA promulgates Rule 9J-5, a 60-page checklist guiding the contents of local government comprehensive plans.</td>
<td><strong>1992</strong> Water Resources Development Act authorizes the Kissimmee River Restoration Project, commonly called “The Restudy.” Florida voters adopt Save Our Homes initiative, capping the annual increase in homestead valuations. Voters also approve an amendment to the state constitution imposing an eight-year limit on service in each house of the legislature.</td>
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<td><strong>1972</strong> A state conference on water management in South Florida urges the drafting of enforceable land-use and water supply plans.</td>
<td><strong>1975</strong> Legislature adopts Local Government Comprehensive Planning Act (LGCPA) mandating the adoption of comprehensive plans in all counties and municipalities.</td>
<td><strong>1994</strong> Gov. Lawton Chiles signs the Everglades Forever Act, calling for the acquisition of 44,000 acres of farmland to filter phosphorous runoff into Lake Okeechobee. Total long-term cost of the project is estimated at $774 million, of which sugar farmers would pay $237 million.</td>
<td><strong>1990 - 1994</strong></td>
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<td><strong>1972</strong> Environmental Land and Water Management Act creates Developments of Regional Impact (DRI), allowing interjurisdictional review of large development applications.</td>
<td><strong>1976</strong> Florida Supreme Court rules that impact fees are constitutional. Impact fees become the mechanism of choice for funding growth-related infrastructure.</td>
<td><strong>1994</strong></td>
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<td>Florida voters approve EEL (Environmentally Endangered Lands), a $240 million bond issue to fund the purchase of conservation and recreation lands.</td>
<td><strong>1980</strong> Graham v. Estuary Properties, Inc., affirms the right of a local governing body to deny building permits based on the potential for environmental destruction.</td>
<td><strong>1994</strong></td>
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fic cop any more, that doesn't mean people will start doing 100 mph on the road,” Shelley says. “It's way too early to assume we're going to run amok.”

But that's what happened before, say the critics. A system in which the local governments are in charge and the state serves only an advisory role is one that Florida has already tried and rejected, says Charles Connerly, coeditor of the book Growth Management in Florida: Planning for Paradise.

From 1975 to 1985, he says, local governments drew up their own plans and the state had no say in them. As a result, many local governments didn't take growth management seriously. They didn't adopt plans, or they just ignored them. “It was a sham,” says Connerly, an urban planning professor formerly with Florida State University and now director of the graduate program in urban and regional planning at the University of Iowa.

That led to congested roads, crowded schools, overloaded sewers, and other signs that Florida was overwhelmed by runaway growth. In 1985, lawmakers passed the Growth Management Act, giving the state the power to review and reject local plans that didn't fit with overall state goals for growth. Business interests went along with it, and with good reason, Connerly says.

“They saw that it was good for Florida,” Connerly notes. “What makes Florida special is the environment. If you don't protect the environment, why would anyone go there?”

Versions of Florida’s new law were soon adopted by New Jersey, Maine, Vermont, Rhode Island, Georgia, and Washington.

In the statehouse

Among Florida’s state legislators, the leading proponent for changing the law was Sen. Mike Bennett, a Bradenton developer who had never tangled with DCA over any of his projects. He says that back in 1985, the DCA and Growth Management Act were a good idea. Since then, though, both had suffered “mission creep,” as state bureaucrats piled on more rules, hampering developers’ freedom to boost the economy, he says.

The DCA did not stop local officials from permitting a cement plant near Ichetucknee Springs State Park, one of Florida’s most popular springs.


Voters reject the penny-per-pound tax on sugar to fund Everglades restoration.

1997 Legislature adopts $2.7 billion appropriation to alleviate school crowding.

2000 State population reaches nearly 16 million, making Florida the fourth most populous state in the U.S. after California, Texas, and New York.

Florida voters approve a referendum to build a “state-wide high-speed monorail, fixed guideway, or magnetic levitation system” linking Florida’s five largest urban areas. Construction is scheduled to begin by November 2003.

2002 Florida voters approve class size and prekindergarten constitutional amendments.

2003 Florida voters repeal the high-speed rail referendum.

2005 Growth Management Act amended to include a school concurrency requirement.

2007 A total of 13,592 foreclosure cases are filed in Lee County (Fort Myers, Cape Coral) courts, a 942 percent increase over the 2005 total of 1,304.

2009 Florida’s population declines from 18.8 million to 18.75 million, the first drop since just after World War II.

Florida Department of Education Office of Educational Facilities projects a decline in public school enrollment over the five years between FY 2008-09 and 2012-13.

2010 President Obama resurrects the high-speed initiative, awarding Florida $1.25 billion to fund a portion of the Tampa-Orlando segment along the median of Interstate 4.

A British Petroleum oil rig in the Gulf of Mexico explodes and collapses, killing 11 workers and setting off the worst oil spill in history. Florida’s coastal areas brace for ecological disaster.

2011 Gov. Rick Scott rejects high-speed rail, turning down what had grown to $2 billion in federal funding.

Gov. Scott signs HB 7207, the Community Planning Act, which reduces DCAs role in local government planning, eliminates mandatory concurrency for most classes of infrastructure including transportation and schools, and repeals Rule 9J-5.

The Department of Community Affairs is absorbed into the Department of Economic Opportunity.

Max Forgey is the proprietor of Forgey Planning Services, a consulting practice based in Cape Coral, Florida.

Left to right:

1970 The Collier Dade International Airport would have turned the Tamiami Trail, which runs through the Everglades, into a multilane expressway.

1981 Estero Bay was at the center of the Graham v. Estuary Properties case.

1992 The Kissimmee River

2011 The route of Florida’s now defunct high-speed rail line.
He compares the expansion of the state's growth management rules to putting a frog in a pot of water, setting the pot on a stove, and slowly turning up the heat. Over time, "they killed the frog," he told his fellow senators during debate on the bill. "We've got to bring the frog back to life." That would be the only way to start creating new jobs to help the economy, he said.

After the session was over and Scott had signed HB 7207, Bennett was touting his work in changing the law at a public forum in Sarasota. The moderator of the forum asked Bennett exactly how this change in the growth management law would create more jobs, especially since there were already so many thousands of vacant houses in the state, and how soon those jobs would start appearing.

"You cannot change the growth management bill... and expect it to create jobs immediately," Bennett replied. It could take years, he conceded.

Some planners say Bennett and his colleagues could wait a long time for development to start providing jobs the way it did during the past decade, especially in Bennett's own home turf of Manatee County. Former senior Manatee County planner Norm Luppino says that county officials, working under the old growth rules, had already approved enough new development to keep pace with projected growth for the next 20 years.

"There's no need for new development," Luppino says. "We're overbuilt."

**End game**

The virtual repeal of the Growth Management Act didn't happen overnight. Some state officials have talked of changing or amending the Growth Management Act for years. During Jeb Bush's two terms as governor, from 1998 to 2006, he appointed a committee to travel the state listening to ideas for improving it. But when someone mentioned eliminating state review of local plans, Bush's own staff objected.

David Struhs, then Bush's secretary of the state Department of Environmental Protection, said at the time that local governments are not always the best protectors against sprawl and other growth problems. Local officials sometimes approve a project for political reasons while praying that state officials reject it, he said.

Struhs pointed out a controversial cement plant that was built in a rural area near Ichetucknee Springs, one of the state's most popular water holes. Struhs reminded the members of Bush's growth commission that the plant would never have been built had county officials rejected building the factory in an area zoned for agriculture.

"I don't think a cement plant is agricultural," Struhs told them. "Call me crazy but that's what they teach us at Harvard."

Just last year the Florida Senate voted 38-0 to keep the DCA as part of state government—a step included in the standard "sunset review" required for all state agencies every five years. But the house failed to vote on the measure. That left the door open for killing the agency this year, after Scott's election ended any possibility of its being veted by the governor.

The man that Barney Bishop says really doomed the DCA was its secretary under former Gov. Charlie Crist, Tom Pelham. Pelham had also served as DCA secretary from 1987 to 1991, the years when DCA was first implementing the Growth Management Act and writing the original rules. During his four years heading up the department under Crist, developers found him too stiff, too unyielding, says Bishop.

But Pelham says all the talk about the DCA being "job-killers" was a lie. His agency approved nine out of 10 growth plan amendments from local governments. Bishop's statement that DCA was just a bogeyman is "a confession that they lied—they vilified the department," he says.

Pelham contends that the DCA was done in primarily because he crossed the state's biggest landowners on making rules for how rural areas in Central and South Florida are developed. "When I came into office, I found waiting for me all the large landowners with huge new plan amendments converting lots of rural land into urban development," Pelham says.

One of them, the 50,000-acre Blue Head Ranch project, controlled by the family of the state senate's budget committee chairman, called for putting some 30,000 housing units on what had long been agricultural land in rural Highlands County. DCA planners questioned the need for such a huge project, noting it would accommodate more than double the county's expected growth through the next two decades, as well as asking where Blue Head Ranch would get the water to supply so many home buyers.

Pelham's DCA instituted rules that the big landowners didn't like, rules the DCA said were necessary to protect rural land from being overrun by sprawl. So those landowners joined with the Florida Chamber of Commerce and the Florida Farm Bureau to file a legal challenge.

"They made all their extravagant claims and lost on every point," Pelham recalls. The judge ruled for the DCA, but the victory was only temporary. The changes the legislature made will wipe out that decision, Pelham says.

"It will open the door for them to do everything they wanted to do," he adds. The defeat of Hometown Democracy and the election of Scott emboldened the DCA's enemies to "take 20 years of rules and throw them out the window and say, 'You're free, do what you want.' But it's just going to create a lot of chaos."

Merle Bishop contends that this is the time for the state's professional planners to stop any slide into chaos. He urges his fellow planners to take a stand, to "find opportunities to communicate the value of planning as a framework for decision making at the local level."

Nothing less than the fate of Florida is at stake, he says.

"Economic development and job creation is the direct result of good, sound planning," he notes. "Businesses and industry do not want to locate or remain where roads are congested, schools are overcrowded, there is nowhere for residents to have recreation, and the community has poor housing and abandoned buildings."

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**Correction**

Although early versions of Florida's growth management bill called for curtailing or eliminating impact fees on new development, the final version that passed did not include that language. A story published in July (News) was in error on that point.

**What's Next**

In August the city of Yankeetown filed suit in Leon County, contending that the state legislature illegally passed the new growth law because it was done as part of the state budget.