

Bill No. SB 594, 1st Enq.

Amendment No. ____ Barcode 763468

CHAMBER ACTION

Senate

House

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Senator Fasano moved the following amendment:

Senate Amendment (with title amendment)

On page 1 between lines 28 and 29,

insert:

Section 2. Subsection (32) is added to section 163.3164, Florida Statutes, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.--As used in this act:

(32) "Military installation" means a base, camp, post, homeport facility for any ship, or other location under the jurisdiction of the Department of Defense, including any leased facility. Such term does not include any facility used primarily for civil works, docking facilities, rivers and harbors projects, or flood control projects.

Section 3. Paragraph (a) of subsection (6) and paragraph (1) of subsection (10) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of

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1 comprehensive plan; studies and surveys.--

2 (6) In addition to the requirements of subsections
3 (1)-(5), the comprehensive plan shall include the following
4 elements:

5 (a) A future land use plan element designating
6 proposed future general distribution, location, and extent of
7 the uses of land for residential uses, commercial uses,
8 industry, agriculture, recreation, conservation, education,
9 public buildings and grounds, other public facilities, and
10 other categories of the public and private uses of land. Each
11 future land use category must be defined in terms of uses
12 included, and must include standards to be followed in the
13 control and distribution of population densities and building
14 and structure intensities. The proposed distribution,
15 location, and extent of the various categories of land use
16 shall be shown on a land use map or map series which shall be
17 supplemented by goals, policies, and measurable objectives.
18 The future land use plan shall be based upon surveys, studies,
19 and data regarding the area, including the amount of land
20 required to accommodate anticipated growth; the projected
21 population of the area; the character of undeveloped land; the
22 availability of public services; the need for redevelopment,
23 including the renewal of blighted areas and the elimination of
24 nonconforming uses which are inconsistent with the character
25 of the community; the compatibility with military
26 installations; and, in rural communities, the need for job
27 creation, capital investment, and economic development that
28 will strengthen and diversify the community's economy. The
29 future land use plan may designate areas for future planned
30 development use involving combinations of types of uses for
31 which special regulations may be necessary to ensure

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1 development in accord with the principles and standards of the
2 comprehensive plan and this act. In addition, for rural
3 communities, the amount of land designated for future planned
4 industrial use shall be based upon surveys and studies that
5 reflect the need for job creation, capital investment, and the
6 necessity to strengthen and diversify the local economies, and
7 shall not be limited solely by the projected population of the
8 rural community. The future land use plan of a county may also
9 designate areas for possible future municipal incorporation.
10 The land use maps or map series shall generally identify and
11 depict historic district boundaries and shall designate
12 historically significant properties meriting protection. The
13 future land use element must clearly identify the land use
14 categories in which public schools are an allowable use. When
15 delineating the land use categories in which public schools
16 are an allowable use, a local government shall include in the
17 categories sufficient land proximate to residential
18 development to meet the projected needs for schools in
19 coordination with public school boards and may establish
20 differing criteria for schools of different type or size.
21 Each local government shall include lands contiguous to
22 existing school sites, to the maximum extent possible, within
23 the land use categories in which public schools are an
24 allowable use. All comprehensive plans must comply with the
25 school siting requirements of this paragraph no later than
26 October 1, 1999. The failure by a local government to comply
27 with these school siting requirements by October 1, 1999, will
28 result in the prohibition of the local government's ability to
29 amend the local comprehensive plan, except for plan amendments
30 described in s. 163.3187(1)(b), until the school siting
31 requirements are met. Amendments proposed by a local

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1 government for purposes of identifying the land use categories
2 in which public schools are an allowable use or for adopting
3 or amending the school-siting maps pursuant to s. 163.31776(3)
4 are exempt from the limitation on the frequency of plan
5 amendments contained in s. 163.3187. The future land use
6 element shall include criteria that encourage the location of
7 schools proximate to urban residential areas to the extent
8 possible and shall require that the local government seek to
9 collocate public facilities, such as parks, libraries, and
10 community centers, with schools to the extent possible and to
11 encourage the use of elementary schools as focal points for
12 neighborhoods. For schools serving predominantly rural
13 counties, defined as a county with a population of 100,000 or
14 fewer, an agricultural land use category shall be eligible for
15 the location of public school facilities if the local
16 comprehensive plan contains school siting criteria and the
17 location is consistent with such criteria.

18 (10) The Legislature recognizes the importance and
19 significance of chapter 9J-5, Florida Administrative Code, the
20 Minimum Criteria for Review of Local Government Comprehensive
21 Plans and Determination of Compliance of the Department of
22 Community Affairs that will be used to determine compliance of
23 local comprehensive plans. The Legislature reserved unto
24 itself the right to review chapter 9J-5, Florida
25 Administrative Code, and to reject, modify, or take no action
26 relative to this rule. Therefore, pursuant to subsection (9),
27 the Legislature hereby has reviewed chapter 9J-5, Florida
28 Administrative Code, and expresses the following legislative
29 intent:

30 (1) The state land planning agency shall consider land
31 use compatibility issues in the vicinity of all airports in

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1 coordination with the Department of Transportation, and for
2 military installations in coordination with the Department of
3 Defense.

4 Section 4. Section 163.31779, Florida Statutes, is
5 created to read:

6 163.31779 Military Installation Memorandum of
7 Agreement.--

8 (1)(a) The county or counties in which a military
9 installation is either wholly or partially located and those
10 municipalities adjacent to or proximate to the military
11 installation, as determined by the state land planning agency
12 based on the recommendations of the governing bodies of the
13 affected counties and municipalities and the commanding
14 officer whose primary responsibility is the operation of the
15 military installation, shall enter into a memorandum of
16 agreement with the military installation to coordinate future
17 land use changes including the local government comprehensive
18 plan, land development regulations, and development orders.

19 (b) The agreements shall be completed in accordance
20 with a schedule published by the state land planning agency.
21 The schedule must establish staggered due dates for completion
22 of such agreements that are executed by both the local
23 government and the military installation, concluding by July
24 1, 2004.

25 (c) The military installation, the county or counties
26 in which the military installation either wholly or partially
27 is located and the affected municipalities that are adjacent
28 to or proximate to the military installation as determined by
29 the state land planning agency are encouraged to adopt a
30 single memorandum of agreement to which all join as parties.
31 The state land planning agency shall assemble and make

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1 available model agreements meeting the requirements of this
 2 section and shall notify local governments and military
 3 installations of the requirements of this section. The state
 4 land planning agency shall be available to informally review
 5 proposed agreements.

6 (2) In preparing to adopt a memorandum of agreement,
 7 the local government must seek advice from residents of the
 8 local government and others who are likely to be affected by
 9 its provisions including, but not limited to; builders,
 10 developers, conservation groups, representatives of the United
 11 States Armed Services, and neighborhood groups.

12 (3) At a minimum, the memorandum of agreement must:

13 (a) Coordinate planning activities between the local
 14 government and military installation to determine how the
 15 public health, safety, and welfare is likely to be affected by
 16 the proximity of development to the military installation,
 17 operating areas, and ranges.

18 (b) Coordinate planning activities between the local
 19 government and military installation to make reasonable
 20 provisions for preserving open space and compatible land uses
 21 near the military installation.

22 (c) Coordinate planning activities between the local
 23 government and military installation to evaluate land
 24 proximate to the military installation taking into
 25 consideration the findings of any Department of Defense Joint
 26 Land Use Study Program, or the findings of any Air
 27 Installation Compatible Use Zone (AICUZ) and of any
 28 Installation Environmental Noise Management Program (IENMP,
 29 which was formerly the Installation Compatible Use Zone, or
 30 ICUZ, program).

31 (d) Provide for a process by which the affected local

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1 governments and military installation coordinate and share
2 information relating to comprehensive plans and plan
3 amendments, land development regulations and changes thereto
4 including zoning changes, and development orders. The
5 affected local governments shall provide the military
6 installation an opportunity to review and comment on
7 comprehensive plans, plan amendments, land development
8 regulations and changes thereto, and development orders. The
9 local government shall consider those comments, if any, when
10 adopting such plans or regulations or when approving
11 development orders. Comments on plan amendments may be
12 provided to the Department for consideration in its compliance
13 review.

14 (e) Provide for the resolution of disputes between the
15 military and local governments, which may include the dispute
16 resolution processes contained in chapters 164 and 186.

17 (f) Provide for an oversight process, including an
18 opportunity for public participation, for the implementation
19 of the memorandum of agreement.

20 (g) Provide for the identification of amendments to
21 the comprehensive plan needed to ensure compatibility with the
22 military installation and consistency with the interlocal
23 agreement.

24 (4) A memorandum of agreement entered into pursuant to
25 this section must be consistent with the adopted comprehensive
26 plan, or an amendment to such plan adopted within one year
27 after execution of the agreement, and land development
28 regulations of any local government that is a signatory.

29 (5) The commanding officer whose primary
30 responsibility is the operation of the military installation
31 is encouraged to provide information about any community

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1 planning assistance grants that might be available to the
2 local government through the federal Office of Economic
3 Adjustment, as an incentive for communities to participate in
4 the Joint Land Use Study Program to facilitate the
5 compatibility of community planning and activities vital to
6 the national defense.

7 Section 5. A new paragraph (m) is added to subsection
8 (1) of section 163.3187, Florida Statutes, to read:

9 163.3187 Amendment of adopted comprehensive plan.--

10 (1) Amendments to comprehensive plans adopted pursuant
11 to this part may be made not more than two times during any
12 calendar year, except:

13 (m) A comprehensive plan amendment that addresses
14 compatibility with military installations pursuant to the
15 military installation memorandum of agreement, does not count
16 toward the limitation on the frequency of plan amendments.

17 Section 6. A new paragraph (n) is added to subsection
18 (2) of section 163.3191, Florida Statutes, to read:

19 163.3191 Evaluation and appraisal of comprehensive
20 plan.--

21 (2) The report shall present an evaluation and
22 assessment of the comprehensive plan and shall contain
23 appropriate statements to update the comprehensive plan,
24 including, but not limited to, words, maps, illustrations, or
25 other media, related to:

26 (n) An evaluation of the success or failure of the
27 military installation memorandum of agreement in resolving
28 land use compatibility in the proximity of military
29 installations.

30 Section 7. Subsection (13) is added to section
31 163.3167, Florida Statutes, to read:

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1 163.3167 Scope of act.--

2 (13)(a) If a local government grants a quasi-judicial
3 development order pursuant to its adopted land development
4 regulations and the order is not the subject of a pending
5 appeal, the right to commence and complete development
6 pursuant to the order may not be abrogated by a subsequent
7 judicial determination that such land development regulations
8 or any portion thereof are invalid because of a deficiency in
9 the approval standards.

10 (b) This subsection does not preclude or affect the
11 timely institution of a common law writ of certiorari
12 proceeding pursuant to Rule 9.190, Florida Rules of Appellate
13 Procedure or original proceedings pursuant to s. 163.3215.

14 (c) This subsection applies retroactively to any order
15 granted on or after January 1, 2002.

16
17 (Redesignate subsequent sections.)

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20 ===== T I T L E A M E N D M E N T =====

21 And the title is amended as follows:

22 On page 1, line 2 through 6 delete those lines

23
24 and insert:

25 An act relating to military affairs; amending
26 s. 627.7283, F.S.; requiring an insurer to
27 refund the entire unearned premium to any
28 member of the armed services who cancels a
29 policy under certain circumstances; amending s.
30 163.3164, F.S., providing a definition of
31 military installations; amending s. 163.3177,

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1 F.S., providing for consideration of the
2 compatibility with military installations in
3 developing a future land use element to a
4 comprehensive plan; providing for the state
5 land planning agency to coordinate with the
6 Department of Defense on use compatibility
7 issues relating to military installations;
8 creating s. 163.31779, F.S., requiring certain
9 counties and municipalities to enter into
10 memoranda of agreement with military
11 installations to coordinate future land use
12 changes, local government comprehensive plans,
13 land development regulations, and development
14 orders; requiring a schedule for completion of
15 such agreements; requiring local governments to
16 seek public advise on such agreements;
17 identifying provisions that must be included in
18 such agreements at a minimum; requiring such
19 agreements to be consistent with adopted
20 comprehensive plans or amendments to such plans
21 adopted within one year after execution of the
22 agreement; requiring for the provision of
23 information regarding community planning
24 assistance grants; amending s. 163.3187, F.S.,
25 exempting from certain restrictions on the
26 adoption of amendments to comprehensive plans
27 an amendment that addresses compatibility with
28 military installations based on a memorandum of
29 agreement; amending s. 163.3191, F.S.,
30 requiring an evaluation of the success or
31 failure of the military installation memorandum

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1 of agreement in resolving land use
2 compatibility; amending s. 163.3167, F.S.;
3 prohibiting certain judicial abrogation of
4 quasi-judicial development orders issued by
5 local governments; providing for retroactive
6 application; providing

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