

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 661 w/CS Military Readiness
SPONSOR(S): Evers
TIED BILLS: None. **IDEN./SIM. BILLS:** None.

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Veterans' & Military Affairs (Sub)</u>	<u>8 Y, 0 N</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
2) <u>Local Government & Veterans' Affairs</u>	<u>18 Y, 0 N w/CS</u>	<u>Smith-Boggis</u>	<u>Highsmith-Smith</u>
3) <u>Commerce</u>	<u></u>	<u>Winker</u>	<u>Whitfield</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill requires local governments, within a county or counties where a military installation is either wholly or partially located, and those municipalities, as determined by the governing bodies of the affected counties and municipalities and the commanding officer, whose primary concern is the operation of the military installation, to transmit to the commanding officer of the military installation, certain information. That information should include any proposed changes in land use or proposed re-zonings that would, if approved, affect the density or use of the property that is the subject of the application where a military base or installation is located. This information may be utilized when preparing, in anticipation of final adoption, of a military readiness element as a part of a local comprehensive plan. The military readiness elements are required to address land use compatibility with military bases and installations.

The bill may have a fiscal impact on the Department of Community Affairs. Additionally, the bill may require certain local governments to spend funds to the extent of developing a new required element to their local comprehensive plans.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0661d.com.doc
DATE: April 7, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill requires local governments, within a county or counties where a military installation is either wholly or partially located, and those municipalities as determined by the governing bodies of the affected counties and municipalities and the commanding officer, whose primary concern is the operation of the military installation, to prepare and adopt a military readiness element as a part of their comprehensive plan. Military readiness elements are required to address land use compatibility with military bases and installations.

B. EFFECT OF PROPOSED CHANGES:

The bill requires local governments, within a county or counties where a military installation is either wholly or partially located, and those municipalities, as determined by the governing bodies of the affected counties and municipalities and the commanding officer, whose primary concern is the operation of the military installation, to transmit to the commanding officer of the military installation, certain information. That information should include any proposed changes in land use or proposed re-zonings that would, if approved, affect the density or use of the property that is the subject of the application where a military base or installation is located.

The bill requires a military readiness element as part of a comprehensive plan for any local government which has a military installation within its jurisdiction. A military readiness element is required to address land use compatibility with military bases and installations.

The bill authorizes a commanding officer of a military installation to submit written statements to the affected local government regarding any adverse effects that any proposed change or re-zoning on property near a military installation may have on the military installation, operating areas, or ranges. These comments may include the commanding officer’s opinion on whether the proposed land use changes will violate the safety and noise standards contained in the Navy’s and Air Force’s Air Installation Compatible Use Zone (AICUZ) and whether the changes are incompatible with the Army’s Installation Environmental Noise Management Program (IENMP).

Those comments may be provided by the commanding officer to the Department of Community Affairs in anticipation of any revisions to a comprehensive plan. The commanding officer is encouraged to include information about any community planning assistance grants that may be available to local governments through federal agencies. The bill provides that the local government should take guidance from the comments of the commanding officer when rezoning or making land use changes.

The bill requires local governments to update the military readiness element and must submit an updated military readiness element to DCA by June 30, 2004.

The bill exempts certain local governments from preparing and submitting a mandatory military readiness element. This exemption applies if the local government has entered into, prior to January 1, 2003, a

memorandum of understanding with a military installation within its jurisdiction. The memorandum must address, but is not limited to, issues relating to emergency preparedness, recreation, and law enforcement. In order to be exempt, the local government must also, prior to September 1, 2003, amend its zoning code to include a representative of the military installation as a member of the local development review committee. Such local government may prepare an optional military readiness element.

Plan amendments for military readiness elements are exempt from the twice per year limitation on plan amendments to comprehensive plans.

Present Situation

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985, ("Act") ss. 163.3161-163.3244, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements.

Currently the comprehensive plan includes the following elements:

- A future land use plan;
- A traffic circulation element;
- A general sanitary sewer, solid waste, drainage, potable water and natural groundwater aquifer recharge element;
- A conservation element;
- A recreation and open space element;
- A housing element; for certain areas a coastal management element;
- An intergovernmental coordination element;
- For certain local governments the optional elements of the comprehensive plan;
- For certain local governments a transportation element; and
- An airport master plan.

The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the Department of Community Affairs (DCA) is required to adopt by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act.

Such minimum criteria must require:

- That the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan;
- That the elements include policies to guide future decisions and programs to ensure the plans are implemented;
- That the elements include processes for intergovernmental coordination; and
- That the elements identify procedures for evaluating the implementation of the plan.

The original minimum criteria rule for reviewing local comprehensive plans and plan amendments was adopted by DCA on March 6, 1986 as Rule 9J-5, Florida Administrative Code, (F.A.C.). Further, local governments are currently required by Rule 9J-5.006(3)(c)2., F.A.C., to address land use compatibility in their comprehensive plans, however, there are currently no statutory or rule requirements that address specific compatibility issues with military bases and installations, other than the general airport compatibility provisions. Compatibility is defined by 9J-5.003(23), F.A.C., as "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use of condition".

After a comprehensive plan has been adopted, subsequent changes are made through amendments to the plans. There are generally two types of amendments: 1) amendments to the future land use map that change the land use category designation of a particular parcel of property or area; and 2) text amendments that change the goals, objectives or policies of a particular element of the plan. In addition, every seven years a local government must adopt an evaluation and appraisal report (EAR) assessing the progress of the local government in implementing its comprehensive plan. The local government is required, pursuant to s. 163.3191(10), F.S., to amend its comprehensive plan based on the recommendations in the report.

The majority of Florida's military bases and installations are located within or on the edge of urbanized or urbanizing areas of the state. Consequently, land use conflicts with military bases and installations operations sometimes arise, including aircraft noise impacts to residents and businesses, potential collision of aircraft with non-military buildings and structures, and noise and explosion hazards from firing and bombing ranges. These encroachment problems are increasing as population growth continues in the vicinity of military bases and installations, which can impair the utility, operational effectiveness, training, and readiness mission of these facilities and may lead to their closure.

The federal government is embarking on another base realignment and closure process, commonly referred to as "BRAC", during which military installations across all services will be reviewed to determine whether functions and bases can be consolidated or closed. Although the final decisions on realignments and closures will not come until late 2005, the process is starting this year with the selection of proposed criteria. It is already known that the military value of a base will be a heavily weighted element of the criteria.

The BRAC process reflects a desire to eliminate excess physical capacity created as a result of reduced troop size, which has been cut by 40% since 1990, and the need to fund higher priority weapons and troop training. There have been four BRAC rounds between 1988 and 1995. The Department of Defense has indicated that approximately 25% of the military bases will be closed or realigned during this round. The 22 bases and three joint commands situated in Florida will, like all other bases across all the military branches, be subjected to the BRAC review process.

The Department of Defense has established programs in response to existing and potential threats of incompatible land development compromising the missions of military installations. The programs, the Navy and Air Force's Air Installation Compatible Use Zone (AICUZ) program and the Army's Installation Environmental Noise Management Program (IENMP) are designed to promote compatible development on and off bases. These programs provide information to local governments about noise and accident potential generated by base operations and encourages communities to adopt land use controls that ensure compatible development in areas adversely affected by military installations.

The Department of Defense's Joint Land Use Study Program is a cooperative effort between local governments and military installations to develop compatible measures designed to prevent urban encroachment. The DOD's Office of Economic Adjustment offers technical and financial assistance in the form of community planning assistance grants as an incentive to participate in that joint planning process which promotes the incorporation of AICUZ/ IENMP data into local plans and zoning codes. A Joint Use Land Study (JULS) can be initiated by the military or a local government or both when a military installation may be experiencing encroachment problems or that there is a likelihood of encroachment that could adversely affect the military mission. A JULS usually takes a year to complete and according to information from the DOD's Office of Economic Adjustment, can achieve the following goals:

- Protecting the health and safety of residents living or working near the military installations;
- Preserving long-term land use compatibility between the installation and the surrounding community;
- Promoting comprehensive community planning;

- Encouraging a cooperative spirit between the local base command and local community officials; and
- Integrating the local jurisdiction's comprehensive plans with the military installation's plans.

Implementation measures of the JULLS may involve revisions to the community's comprehensive plan and traditional land use and development controls, such as zoning, subdivision regulations, structural height restrictions, and the promotion of planned unit development concepts.

C. SECTION DIRECTORY:

- Section 1. Amends section 163.3164, F.S., relating to the local government comprehensive planning and land development regulation act; creates subsection (32) which defines a military installation.
- Section 2. Creates section 163.3175, F.S., to establish Legislative findings on the compatibility of development with military bases and installations; provides for the exchange of information between local governments and military bases and installations; provides that the commanding officer may submit to the local government written comments regarding any adverse effects land use decisions may have on military installations, operating areas, or ranges, not limited to, the commanding officer's opinion as to whether those proposed changes will violate the safety and noise standards contained in the AICUZ or whether the changes are incompatible with the IENMP; provides that the commanding officer may provide the state land planning agency with copies of any comments on proposed comprehensive plan changes; provides that the commanding officer is encouraged to include information about any community planning assistance grants that may be available to the local government through the federal Office of Economic Adjustment; provides that the local government should take the comments of the commanding officer or designee into consideration when re-zoning or making changes in land use.
- Section 3. Paragraph (l) is added to subsection (6) of section 163.3177, F.S., relating to required and optional elements of comprehensive plans; studies and surveys, adding paragraph (l) to require a military readiness element for local comprehensive plans in a county or counties where a military installation is either wholly or partially located, and those municipalities as determined by the governing bodies of the affected counties and municipalities and the commanding officer, whose primary concern is the operation of the military installation; requires each unit of local government as defined in this paragraph to update the military readiness element pursuant to this act and transmit the element by June 30, 2004; provides for an exemption.
- Section 4. Paragraph (m) is added to subsection (1) of section 163.3187, F.S., relating to amendment of the adopted comprehensive plan, so that the amendment relating to military readiness may be made at any time and does not count toward the limitation on the frequency of plan amendments.
- Section 5. Provides the bill takes effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: The bill may have a fiscal impact on state government [see Fiscal Comments below].

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: The bill may require local governmental entities to spend funds to adopt a new element to their comprehensive plan [see Fiscal Comments below].

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Local governments may have to expend funds in order to prepare and implement military readiness elements to their local comprehensive plan. Local government property tax revenues might experience a reduction if development in the vicinity of military bases and installations were negatively impacted. The addition of a new element requiring review by DCA might increase some state costs. However, local governments and the State of Florida would experience a substantial loss of sales tax revenues and other revenues if military installations were closed because urban encroachment reduced the usefulness and effectiveness of the military installations.

Private Sector Issue:

Property owners and land developers in the immediate vicinity of military installations might experience decreases in property values or revenues if development were restricted near these installations. However, regional economies around military installations would be significantly affected if military installations were to close or be significantly reduced.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other: None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Community Affairs will likely have to produce guidelines for and provide assistance to local governments in meeting the provisions of this bill. Such guidelines will likely relate to how local governments address the effects of development on military readiness activities and recommendations as to how to proceed so that encroachment is limited or reduced on property adjacent to or near military installations.

The Department of Community Affairs will also likely have to prepare and publish guidance for use by local officials, planners, and developers that explains how to reduce land use conflicts between civilian development near and adjacent to military installations.

Committee on Commerce staff has identified areas of the bill which need revisions to either clarify the intent of the bill or to correct drafting errors.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Veterans' & Military Affairs recommended a strike-all amendment on March 20, 2003. The strike-all amendment is substantially the same as the bill as filed, however the strike-all amendment accomplishes the following:

- Defines "military installation" to mean a base, camp, post, station, yard, center, 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, rivers and harbors projects, or flood control projects.
- Adds the following jurisdiction: "county or counties wherein the military installation is located, either wholly or partially, and those municipalities as determined by the governing bodies of the affected counties, municipalities and the commanding officer whose primary concern is the operation of the military installation, should transmit to the commanding officer of the military installation information regarding proposed changes in land use or proposed re-zonings that would, if approved, affect the intensity or density or use of the property that is the subject of the application and is within an area of interest previously identified by the base commanding officer."
- Allows the commanding officer to comment on proposed comprehensive plan changes to DCA;
- Provides that local governments are required to update the military readiness element and must transmit the updated element by June 30, 2004.

The Committee on Local Government & Veterans' Affairs adopted a substitute amendment to the amendment on March 27, 2003. The substitute amendment is substantially the same as the amendment as recommended; however, the substitute amendment adds an exemption provision. The provision states the following: A local government which, prior to January 1, 2003, has entered into memoranda of understanding with a military installation within the geographic boundaries of the local government which address, at a minimum, employment, emergency preparedness, recreation, law enforcement, mutual aid, and housing and which, prior to September 1, 2003, amends its zoning code to include a representative of the military installation as a member of the local development review committee, shall be exempt from the requirement of preparing a military readiness element as a mandatory element of its comprehensive plan but may prepare such an element as an optional element.