

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 1666

INTRODUCER: Senator Wright

SUBJECT: Marine Encroachment on Spaceflight and Military Operations

DATE: March 21, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Hunter | Ryon | CA | Pre-meeting |
| 2. | | | MS | |
| 3. | | | RC | |

I. Summary:

SB 1666 modifies and lengthens the list of military installations and ranges determined to be vulnerable to compatibility and coordination issues as a result of land use decisions by nearby local governments. The purpose of this list is facilitate the exchange of information between local governments and military installations to encourage compatible land use, help prevent incompatible encroachment, and ensure the continued presence of major military installations in this state. The bill also incorporates “ranges” to numerous provisions throughout current law pertaining to compatible land use and extends the heightened planning provisions to activities in “state-controlled waters” near military installations and ranges.

Lastly, the bill modifies the process for establishing temporary protection zones for spaceflight launches and recovery of spaceflight assets. The bill provides that upon notification from law enforcement that a protection zone has been established, the port authority must direct at least one licensed state harbor pilot, or certificated deputy pilot, to board each cruise or civilian vessel within the port and hand deliver to the operator of such vessel a written notice of the establishment of the protection zone and the penalties for violating conditions of the protection zone. The operator must sign the notice as an indication that he or she acknowledges the information provided and return the signed notice to the pilot.

The bill takes effect July 1, 2023.

II. Present Situation:

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²

All development, both public and private, and all development orders³ approved by local governments must be consistent with the local government's comprehensive plan.⁴ Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.⁶

The future land use plan and plan amendments must be based upon surveys, studies, and data regarding the area, as applicable, including the compatibility of uses on lands adjacent to or in close proximity to military installations.⁷

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.⁸ Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."⁹ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Economic Opportunity (DEO), rather than communicated directly to the permitting local government by each individual reviewing agency.

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.¹⁰ Then, the local governing body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.¹¹

¹ Chapter 85-55, Laws of Fla.

² Section 163.3177, F.S.

³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

⁴ Section 163.3194(3), F.S.

⁵ Section 163.3177(6)(a), F.S.

⁶ *Id.*

⁷ Section 163.3177(6)(2)(f)

⁸ Chapter 2011-139, s. 17, Laws of Fla.

⁹ Section 163.3184(3) and (4), F.S.

¹⁰ Sections 163.3174(4)(a), F.S.

¹¹ Sections 163.3184(11), F.S.

If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as “reviewing agencies”:

- DEO, designated as the “state land planning agency”;¹²
- The appropriate regional planning council;
- The appropriate water management district;
- DEP;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;
- **The commanding officer of an affected military installation;**
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.¹³

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.¹⁴ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.¹⁵

Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.¹⁶ Alternatively, the state coordinated review requires agencies to provide comments to DEO.¹⁷ DEO then has a total of 60 days from receipt to provide the local government with a report containing the state’s objections, recommendations, and comments.¹⁸

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by DEO, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.¹⁹ The second public hearing must be conducted within 180 days after the agency comments are received.

¹² Section 163.3164(44), F.S.

¹³ Section 163.3184(1)(c) and (3)(b)1., F.S.

¹⁴ Section 163.3184(3)(b)2. and (4)(c), F.S. DEO has special requirements for providing comments on plans or plan amendments following the state coordinated review process.

¹⁵ *Id.*

¹⁶ Section 163.3184(3)(b)2.

¹⁷ Section 163.3184(4)(c)-(d), F.S.

¹⁸ Section 163.3184(4)(d), F.S.; see DEO, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited March 1, 2023).

¹⁹ Section 163.3184(11), F.S.

Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.²⁰

Exchange of Information between Local Governments and Military Installations

Section 163.3175, F.S., provides the following legislative findings relating to land use around military installations:

- Incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission;
- Such development also threatens the public safety because of the possibility of accidents occurring within the areas surrounding a military installation;
- The economic vitality of a community is affected when military operations and missions must relocate because of incompatible urban encroachment; and
- Therefore, it is desirable for the local governments in the state to cooperate with military installations to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state.

The section identifies sixteen major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others.²¹ It also identifies proximate local governments and requires those local governments to transmit to the commanding officer of the relevant associated installation or installations the following:

- Information relating to proposed changes to the local government's comprehensive plan or land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; and
- At the request of the commanding officer, copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation.²²

Each affected local government must provide the military installation an opportunity to review and comment on the proposed changes.²³ The commanding officer or his or her designee may provide to the affected local government advisory comments, data, and analyses on the effect the proposed changes may have on the mission of the military installation.²⁴ In making a determination on the proposed changes, the affected local government must consider and weigh the strategic mission of the base, public safety, and economic vitality associated with the base's operations, while also respecting private property rights and avoiding undue restrictions on those rights.²⁵

²⁰ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to DEO and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

²¹ Section 163.3175(2)(a)-(p), F.S.

²² Section 163.3175(4), F.S.

²³ *Id.*

²⁴ Section 163.3175(5), F.S.

²⁵ Section 163.3175(6), F.S.

All comments on comprehensive plan amendments must be forwarded to the state land planning agency.²⁶ To facilitate the exchange of information, a representative of a military installation acting on behalf of all military installations within that jurisdiction serves as a nonvoting member of the county's or affected local government's land planning or zoning board.²⁷

Temporary Protection Zones for Spaceflight Launches and Recovery of Assets

Section 327.462, F.S., regulates the temporary establishment of protection zones in water bodies to ensure security around the launch and recovery of spaceflight assets. The statute defines the following terms:

- “Launch services” means the conduct of a launch and activities involved in the preparation of a launch vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such launch.²⁸
- “Reentry services” means the conduct of a reentry and activities involved in the preparation of a reentry vehicle, payload, government astronaut, commercial astronaut, or spaceflight participant for such reentry.²⁹
- “Spaceflight assets” means any item, or any part of an item, owned by a spaceflight entity which is used in launch services or reentry services, including crewed and uncrewed spacecraft, launch vehicles, parachutes and other landing aids, and any spacecraft or ancillary equipment that was attached to the launch vehicle during launch, orbit, or reentry.³⁰
- “Spaceflight entity” means any public or private entity holding a United States Federal Aviation Administration (FAA) launch, reentry, operator, or launch site license for spaceflight activities. The term also includes any manufacturer or supplier of components, services, or vehicles that have been reviewed by the FAA as part of issuing such a license, permit, or authorization.³¹

The law authorizes the head of a law enforcement agency or entity identified in s. [327.70](#)(1), F.S.³², to temporarily establish a protection zone requiring vessels to leave, or prohibiting vessels from entering, water bodies when necessary for preparations in advance of or for recovery of spaceflight assets before or after a launch service or reentry service.³³

A temporary protection zone must be established under the following conditions:

- The zone must be located within five hundred yards of where launch services, reentry services, or spaceflight asset recovery operations are being conducted. However, the protection zone may be located at a distance greater than five hundred yards if law enforcement determines that such greater distance is in the best interest of public safety.³⁴

²⁶ *Id.*

²⁷ Section 163.3175(7), F.S.

²⁸ Section 327.462(1)(a) F.S.

²⁹ Section 327.462(1)(b) F.S.

³⁰ Section 327.462(1)(c) F.S.

³¹ The law defines “spaceflight entity” to have the same definition as in s. 331.501, F.S.

³² Law enforcement agencies identified in s. 327.70(1), F., are the Division of Law Enforcement of the Fish and Wildlife Conservation Commission, county sheriffs, municipal police, and law enforcement agencies as defined in s. [943.10](#), F.S.

³³ Section 327.462(2) F.S.

³⁴ Section 327.462(2)(a) F.S.

- The zone may remain in effect only as long as necessary to ensure security around the launch and recovery areas and to recover spaceflight assets and any personnel being transported within a spacecraft following the launch or reentry activity. Such protection zone may not be in place more than 72 hours before or 72 hours after the launch.³⁵
- Law enforcement may also restrict vessels from operating within up to 500 yards of any vessel transporting recovered spaceflight assets following a launch or reentry while the transport vessel is continuously underway transporting such assets to a location for removal.³⁶
- Law enforcement may not restrict vessel movement within the Florida Intracoastal Waterway, except as necessary during the transport of spaceflight assets to or from port or during exigent circumstances.³⁷
- Law enforcement must report the establishment of the temporary protection zone via email to The Florida Fish and Wildlife Conservation Commission's (FWC) Division of Law Enforcement, Boating and Waterways Section, and to the appropriate Coast Guard Sector Command having responsibility over the water body, at least 72 hours before establishment of the protection zone. The report must include:
 - Reasons for the protection zone;
 - The portion of the water body or water bodies that will be included in the protection zone; and
 - The duration of the protection zone.
- Law enforcement must report via email to the FWC's Division of Law Enforcement, Boating and Waterways Section, the details of all citations issued for violation of the protection zone no later than 72 hours after the end of the protection zone period.

The law applies only to launch services, reentry services, or the recovery of spaceflight assets occurring or originating within spaceport territory,³⁸ and to federally licensed or federally authorized launches and reentries occurring or transiting to an end destination upon waters of this state.³⁹

The law provides that a person who violates this section or any directive given by law enforcement relating to an established temporary protection zone after being advised of the establishment of the protection zone commits a misdemeanor of the second degree.⁴⁰

Harbor Pilots

In the interest of health, safety, and welfare of residents and property, to protect against economic and environmental damages from accidents on Florida waterways, the state requires ships to use state-licensed harbor pilots who have detailed knowledge of local conditions such as water depth, currents, tides, and navigational hazards and how these factors affect ship

³⁵ Section 327.462(3), F.S.

³⁶ Section 327.462(3)(a), F.S.

³⁷ Section 327.462(3)(b), F.S.

³⁸ Section 331.304, F.S., establishes as spaceport territory specified real property in Brevard, Santa Rosa, Okaloosa, Gulf, Walton, and Duval Counties, and real property which is a spaceport licensed by the FAA, as designated by the board of directors of Space Florida.

³⁹ Section 327.462(5), F.S.

⁴⁰ Section 327.462(6), F.S.

movements in port channels.⁴¹ Pilots serve as advisors to shipmasters (captains) when taking ships into or out of port, but the shipmasters are ultimately responsible for the safe navigation of their vessels.

The 1975 Legislature established the Board of Pilot Commissioners to oversee statewide licensing and regulation of harbor pilots; the board is administratively housed within the Department of Business and Professional Regulation (DBPR).⁴²

Both a state licensed pilot and a state certificated deputy pilot must be at least 21 years old, have a high school diploma or equivalent, be in good mental and physical health as evidenced by a physical examination undertaken by a licensed physician, and pass a drug test.⁴³

In addition, a state licensed pilot must:⁴⁴

- Have had at least 2 years of service as a deputy pilot in the port in which license is desired directly before a required examination.
- Have a valid United States Coast Guard first-class unlimited pilot's license covering all of the waters of the port.
- Have successfully completed the board-approved deputy pilot training program in the port in which license is desired.
- Passed a DBPR examination pertaining to the management of vessels and in regard to their knowledge of the channels, waters, harbors, and port where they wish to serve.

To be certificated as a deputy pilot, an applicant must:⁴⁵

- Have maritime experience satisfactory to the board prior to taking a DBPR examination evidenced by documentation of service while holding a United States Coast Guard license.
- Submit full documentation of sea time through discharges, continuous discharge books, or other official documents.⁴⁶
- Submit proof of sufficient maritime background and experience to enable the applicant, if not already so licensed, to be eligible to obtain a valid United States Coast Guard first-class unlimited pilot's license covering all of the waters of the port.

III. Effect of Proposed Changes:

Compatibility of Development near Military Installations and Ranges

The bill modifies the list of military installations and ranges in s. 163.3175(2), F.S., determined to be vulnerable to compatibility and coordination issues as a result of land use decisions by nearby local governments. Specifically, the bill amends the descriptors and associated local

⁴¹ Section

⁴² Section 310.011, F.S.

⁴³ Sections 310.071 and 310.073, F.S.

⁴⁴ Section 310.073, F.S.

⁴⁵ Section 310.071, F.S.

⁴⁶ Sea service may be documented to the Coast Guard in various forms such as certificates of discharge, pilotage service and billing forms, and service letters or other official documents from marine companies signed by the owner, operator, [master](#), or [chief engineer](#) of the [vessel](#). The Coast Guard must be satisfied as to the authenticity and acceptability of all evidence of experience or training presented. 46 CFR § 10.232

governments for various installations currently identified on the list and also adds the following six installations:

- **United States Coast Guard Sector Jacksonville**⁴⁷ (associated with Duval, Brevard, and Volusia Counties and Jacksonville, Jacksonville Beach, Atlantic Beach, Canaveral Port Authority, and New Smyrna Beach).
- **United States Coast Guard Sector Miami**⁴⁸ (associated with St. Lucie, Palm Beach, Broward, and Miami-Dade Counties and Fort Pierce, Riviera Beach, Dania Beach, Opa-locka, Miami, and Miami Beach).
- **United States Coast Guard Sector Key West**⁴⁹ (associated with Monroe County and Key West, Islamorada, and Marathon).
- **United States Coast Guard Sector St. Petersburg**⁵⁰ (associated with Pinellas, Manatee, Lee, and Levy Counties and St. Petersburg, Clearwater, Cortez, Fort Myers Beach, and Yankeetown).
- **United States Coast Guard Sector Mobile**⁵¹ (associated with Bay, Okaloosa, and Escambia Counties and Panama City, Destin, and Pensacola).
- **South Florida Ocean Measurement Facility**⁵² (associated with Broward County and Dania Beach).

The bill also:

- Extends the heightened planning provisions for land development near military installations and ranges to activities in “state-controlled waters”⁵³ near military installations and ranges.
- Incorporates “ranges” to numerous provisions throughout current law pertaining to the compatibility of uses on lands adjacent to or closely proximate to military installations.
- Accounts for the renaming of the federal Office of Economic Adjustment to the “Office of Local Defense Community Cooperation.”
- References the “Compatible Use Plan Study,” the “Military Installation Resilience Review (MIRR),” and the “Range Air Installation Compatible Use Zone (RAICUS)” for commanding officers to use in determining compatibility of proposed local land use changes.

Temporary Protection Zones for Spaceflight Launches and Recovery of Assets

The bill amends s. 327.462, F.S., to modify the process in which temporary protection zones for spaceflight launches and recovery of spaceflight assets are established. Specifically it requires law enforcement to report the establishment of a protection zone to the appropriate port

⁴⁷ United States Coast Guard Atlantic Area, USCG Sector Jacksonville, available at <https://www.atlanticarea.uscg.mil/Our-Organization/District-7/Units/Sector-Jacksonville-Home/> (last visited Mar. 20, 2023)

⁴⁸ United States Coast Guard Atlantic Area, USCG Sector Miami, available at <https://www.atlanticarea.uscg.mil/Our-Organization/District-7/Units/Sector-Miami/> (last visited Mar. 20, 2023)

⁴⁹ United States Coast Guard Atlantic Area, USCG Sector Key West, available at <https://www.atlanticarea.uscg.mil/Our-Organization/District-7/Units/SectorKeyWest/> (last visited Mar. 20, 2023)

⁵⁰ United States Coast Guard Atlantic Area, USCG Sector St. Petersburg, available at <https://www.atlanticarea.uscg.mil/Our-Organization/District-7/Units/Sector-St-Petersburg/> (last visited Mar. 20, 2023)

⁵¹ United States Coast Guard Atlantic Area, USCG Sector Mobile, available at <https://www.atlanticarea.uscg.mil/Our-Organization/District-8/District-Units/Sector-Mobile/> (last visited Mar 20, 2023)

⁵² Naval Sea Systems Command, South Florida Ocean Measurement Facility - Fort Lauderdale, Florida, available at <https://www.navsea.navy.mil/Home/Warfare-Centers/NSWC-Carderock/Who-We-Are/Fort-Lauderdale-Florida/> (last visited Mar. 20, 2023)

⁵³ Florida state waters are from shore to 3 nautical miles on the Atlantic and from shore to 9 nautical miles on the Gulf.

authority, and upon receipt of such a report, the port authority must direct at least one licensed state pilot, or certificated deputy pilot to board each cruise or civilian vessel escorted into or out of the applicable port and hand deliver to the operator of such vessel a written notice of the establishment of the protection zone and the penalties for violation. The operator must sign the notice as an indication that he or she acknowledges the information provided in the notice and must return the signed notice to the pilot.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Harbor pilots licensed and certificated by the state may see an increase in business to the extent that they are required to deliver notices of Temporary Protection Zones for Spaceflight Launches and Recovery of Assets.

C. Government Sector Impact:

The bill will require more coordination and communication between certain local governments and the military, which may cause a small but likely insignificant fiscal impact to local governments.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3175, 327.462, 163.3177, 163.3184, 380.0651.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
