

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

General Background

In 1985, the Florida Legislature passed the Local Government Comprehensive Planning and Land Development Regulation Act (Chapter 163, Part II, Florida Statutes), commonly referred to as the Growth Management Act. This act requires all local governments to adopt comprehensive land use plans and implement those plans through land development regulations and development orders. The Department of Community Affairs (DCA) is designated as the lead oversight agency, responsible for reviewing comprehensive plans and amendments to determine consistency with state law.

Rural Economic Development Initiative / Rural Infrastructure Fund

The Rural Economic Development Initiative (REDI) was created to encourage and align critical state agency participation and investment around important rural issues and opportunities. Thirty-two Florida counties are presently categorized as "rural" pursuant to statutory definition. Twenty-eight of these rural counties have been categorized into one of three Rural Areas of Critical Economic Concern (North Central, Northwest, and South Central).

The Rural Economic Development Catalyst Project is designed to further goals set forth in REDI by gathering economic intelligence and perspectives for Florida's three Rural Areas of Critical Economic Concern (RACEC). The catalyst project is intended to identify, improve and market regional physical sites to facilitate the location of significant job creation opportunities within the RACECs.

The Rural Infrastructure Fund was created in 1996 to facilitate the planning, preparing and financing of infrastructure projects in rural communities. Three project grants are available under the program: (1) Total Project Participation Grants; (2) Feasibility Grants; and (3) Preclearance Review Grants. The maximum amount available per grant for each project is limited to 25 percent of total appropriated funds. The Florida Legislature provided \$2.7 million for fiscal year 2007-08. Total Participation Grants may fund up to 30 percent of the total infrastructure project costs related to specific job creating opportunities where applicants have applied for the maximum available under other state or federal infrastructure funding programs. Total participation grants are intended to leverage local, state and federal funds.

Comprehensive Plans and Plan Amendments

Section 163.3177, F.S., provides the requirements for elements of local comprehensive plans. A listing of required elements includes elements for capital improvement, future land use, intergovernmental

coordination, housing and transportation. Section 163.3184, F.S., sets forth the criteria for the adoption of comprehensive plans and amendments to those plans.

Proposed Changes

The bill amends s. 163.177, F.S., to provide legislative findings regarding agricultural industrial areas and to create a process for amending local government comprehensive plans to designate and expand existing agricultural industrial uses or facilities located in rural agricultural industrial centers or to expand existing centers to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and existing uses and facilities.

The bill provides the following legislative findings:

- There are a number of rural agricultural industrial centers in the state which process, produce, or aid in the production or distribution of a variety of agriculturally based products, including fruits, vegetables, timber, and other crops, as well as juices, paper, and building materials. The rural agricultural industrial centers have a significant amount of existing associated infrastructure that is used for the processing, production, or distribution of agricultural products
- Such rural agricultural industrial centers are often located within or near communities in which the economy is largely dependent upon agriculture and agriculturally based products. The centers significantly enhance the economy of such communities. However, these agriculturally based communities are often socioeconomically challenged and have been designated as rural areas of critical economic concern. If such rural agricultural industrial centers are lost and not replaced with other job-creating enterprises, the agriculturally based communities will lose a substantial amount of their economies.
- The state has a compelling interest in preserving the viability of agriculture and protecting rural agricultural communities and the state from the economic upheaval that will result from short-term or long-term adverse changes in the agricultural economy. To protect such communities and promote viable agriculture for the long term, it is essential to encourage and permit diversification of existing rural agricultural industrial centers by providing for jobs that are not solely dependent upon, but are compatible with and complement, existing agricultural industrial operations and to encourage the creation and expansion of industries that use agricultural products in innovative or new ways. However, the expansion and diversification of these existing centers must be accomplished in a manner that does not promote urban sprawl into surrounding agricultural and rural areas.

The bill defines “rural agricultural industrial center” as a developed parcel of land in an unincorporated area on which there exists an operating agricultural industrial facility or facilities that:

- Employ at least 200 full-time employees and
- Process and prepare for transport, farm products or biomass material that could be used for the production of fuel, renewable energy, bioenergy, or alternative fuel.

The center may also include land contiguous to the facility site which is not used for the cultivation of crops, but on which other existing activities essential to the operation of such facility or facilities are located or conducted. The parcel of land must be located within or in reasonable proximity to, not to exceed 10 miles, a rural area of critical economic concern.

Under the bill, a landowner located within a rural agricultural industrial center may apply for an amendment to the local government comprehensive plan for the purpose of designating and expanding the existing agricultural industrial uses or facilities located in the center or expanding the existing center to include industrial uses or facilities that are not dependent upon but are compatible with agriculture and the existing uses and facilities. An application for a local government comprehensive plan amendment under this paragraph:

- May not increase the physical size of the original center by more than 50 percent or 320 acres, whichever is greater;

- Must propose a project ultimately creating at least 50 new full-time jobs;
- Must demonstrate that infrastructure exists, or will be provided, to support the expanded center adequate to comply with level-of-service standards adopted in the comprehensive plan; and
- Must contain measures to ensure the mitigation of any adverse environmental impacts.

The bill provides that nothing in the bill shall be construed as conferring the status of a rural area of critical economic concern on any land area not otherwise designated as such pursuant to the current statutory process.

Within six months after receiving such an application, the bill requires the local government to amend the applicable sections of its comprehensive plan to include goals, objectives, and policies that provide for the expansion of rural agricultural industrial centers and discourage urban sprawl in the surrounding areas.

An amendment meeting these requirements is presumed to be consistent with rule 9J-5.006(5), F.A.C., and may only be rebutted by a preponderance of the evidence.

The bill's provisions do not apply to an optional sector plan² or a rural land stewardship area³ or any comprehensive plan amendment that includes an inland port terminal or affiliated port development.

B. SECTION DIRECTORY:

Section 1. Amends s. 163.3177, F.S.; providing legislative recognition and findings; providing a definition; authorizing landowners within a rural agricultural industrial center to apply for an amendment to the local comprehensive plan for certain purposes; providing amendment requirements; requiring a local government to amend its comprehensive plan within a specified period after receiving such application; providing that such amendments are presumed consistent with the Florida Administrative Code; providing for rebuttal of the presumption; specifying nonapplication to optional sector plans and rural land stewardship areas or any comprehensive plan amendment that includes an inland port terminal or affiliated port development.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

² s. 163.3245, F.S.

³ s. 163.3177(11), F.S.

There may be positive economic benefits for a landowner who successfully pursues an amendment to a local comprehensive land use plan under the bill's provisions.

D. FISCAL COMMENTS:

The bill provides that within six months after receiving an application for a comprehensive plan amendment authorized by the bill the local government must amend the applicable sections of its comprehensive plan to include goals, objectives, and policies that provide for the expansion of rural agricultural industrial centers and discourage urban sprawl in the surrounding areas. An amendment meeting these requirements is presumed to be consistent with rule 9J-5.006(5), F.A.C., and may only be rebutted by a preponderance of the evidence. The potential costs to local governments, as well as the Department of Community Affairs which must review local comprehensive plan amendments, are unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

As explained in the "Fiscal Comments" section, the bill may require counties to take an action requiring the expenditure of funds. The potential costs to counties are unknown, but appear to be insignificant. The bill does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 6, 2009, the Policy Council reported the bill favorably as a Council Substitute after adopting two amendments. As a result of these amendments, the Council Substitute differs from the original bill in that the Council Substitute provides an additional limit on use of the proposed expedited plan amendment process. The expedited process would not apply to comprehensive plan amendments that include an inland port terminal or affiliated port development. The Council Substitute also provides that nothing in the bill shall be construed as conferring the status of a rural area of critical economic concern on any land area not otherwise designated as such pursuant to the current statutory process.