

STORAGE NAME: s1458s1z.ep
DATE: June 23, 1998

****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/SB 1458
RELATING TO: Coastal Redevelopment
SPONSOR(S): Committee on Community Affairs and Senator Latvala and others
COMPANION BILL(S): CS/HB 4107 (s) By Representative Wiles

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) NATURAL RESOURCES
- (2) COMMUNITY AFFAIRS
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 15, 1998, CS/SB 1458 passed in the Senate by a vote of 39 YEAS and 0 NAYS. On April 27, 1998, the House laid CS/HB 4107 on the table and CS/SB 1458 was taken up in lieu thereof. Amendments to CS/SB 1458 were adopted by the House and on April 29, 1998, CS/SB 1458, as amended, passed the House by a vote of 118 YEAS and 0 NAYS. On April 30, 1998, the Senate concurred with the House amendments and passed CS/SB 1458 by a vote of 37 YEAS and 0 NAYS. On May 24, 1998, CS/SB 1458 became law without the Governor's signature, becoming Chapter 98-201, Laws of Florida.

II. SUMMARY:

The act provides for redevelopment of coastal resort and tourist areas which are deteriorating and economically distressed. The bill would make such areas subject to the provisions of Part III, Chapter 163, Florida Statutes (F.S.), the Community Redevelopment Act of 1969.

In addition, the act creates a pilot project to facilitate and demonstrate techniques for redeveloping economically distressed coastal resort and tourist areas. The pilot project is located in the coastal areas of Florida's Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet. For a particular area to be eligible, all or part of the area must be within 1) the coastal building zone as defined by s.161.54, F.S., and 2) an economically deprived area as designated by a local government with jurisdiction over the area.

Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot projects. In addition, construction within the areas of the pilot projects are exempted from certain coastal construction permitting criteria pursuant to s. 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. The Department of Environmental Protection (Department) is authorized to grant the necessary permits to close any "gaps" in an existing line of rigid coastal armoring structure. Authorization for the pilot projects and related provisions expire on December 31, 2002, and are subject to review by the Legislature prior to that date.

The act also provides appropriations for residential construction mitigation, the state's match requirement for federally-declared disasters, and red tide research and mitigation.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Community Redevelopment Agencies

Part III of Chapter 163, F.S., the "Community Redevelopment Act of 1969," grants local governments with the authority to establish community redevelopment agencies (CRAs). CRAs are used to assist local governments in the elimination of slum and blight and to restore the declining tax base of these areas. CRAs are required to develop a community redevelopment plan for the rehabilitation and redevelopment of designated slum and blighted areas. CRAs are permitted to establish a redevelopment trust fund utilizing revenues derived from tax increment financing.

Section 163.340(8), F.S. provides a two-part definition of "blighted area." The first part of the definition (s.163.340(8)(a), F.S.) relates to conditions that endanger life or property, impair or arrest the sound growth of a county or municipality, or constitute a menace to the public health, safety, or welfare. The second part of the definition (s. 163.340(8)(b), F.S.) relates to "infrastructure" conditions, such as inadequate street layout, inadequate parking, or roadways, bridges, or public transportation facilities incapable of handling the volume of traffic in the area. For purposes of qualifying for tax credits authorized by Ch. 220, F.S., "blighted area" is defined in terms of the first part of the definition (s.163.340(8)(a), F.S.).

Section 163.355, F.S., requires the adoption of a resolution finding that:

1. One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist within the county or municipality; and
2. The rehabilitation, conservation, or redevelopment of these areas is necessary in the interest of the public health, safety, morals, or welfare of the residents of the county or municipality.

The act also encourages participation by private entities. Section 163.345, F.S., directs a county or municipality, to the greatest extent feasible, to afford maximum opportunity to the rehabilitation or redevelopment of the community redevelopment area by private enterprise. Section 163.350, F.S., permits a county or municipality to establish a workable program for using appropriate private and public resources to eliminate and prevent the redevelopment or spread of slums and urban blight.

Coastal construction regulation

Chapter 161, F. S., provides the legal framework for Florida's coastal protection program. This chapter was initially created by the Beach and Shore Preservation Act, passed in 1965, and was significantly strengthened in regard to control of coastal development by the Coastal Zone Protection Act of 1985. These statutory provisions are administered by the Bureau of Beaches and Coastal Systems within the Florida Department of Environmental Protection. The Bureau is responsible for regulating coastal construction, monitoring the state shoreline, and working with local governments

and the U.S. Army Corps of Engineers to implement erosion control and beach restoration projects.

The Bureau regulates construction and restoration activities below the mean high water level as well as landward to the limits of the water effects of a 100-year frequency coastal storm. A Coastal Construction Control Line (CCCL) is established to define this landward limit of storm erosion damage from a 100-year storm. The CCCL has been established in 24 coastal counties, together representing 95 percent of Florida's sandy beach resource, or 800 coastline miles.

Construction or excavation seaward of the CCCL cannot be initiated until a permit is obtained from the Bureau. Coastal construction permitting focuses upon the protection of the beach/dune system from imprudent construction and the survival of major habitable structures from the effects of major coastal storms. Criteria are included for proper siting, or location, as well as the structural integrity of the proposed structure.

Section 161.053, F.S., provides for rebuilding and relocating existing structures. In general, repair, maintenance, or modification of existing structures within the confines of the existing foundation and not involving work on the foundation itself, is exempt from permitting. Structures that are damaged or being rebuilt for economic reasons may be rebuilt within the confines of the existing foundation upon compliance with design standards. Section 161.053(b), F.S., exempts new construction from certain siting and design criteria, if such construction is landward of existing armoring that is capable of providing protection from a 100-year storm surge.

Section 161.085, F.S., is the state's policy on rigid coastal armoring structures. Primarily, the policy provides for the state's protection of private property and public infrastructure. One way that the state achieves this policy is by issuing permits for the present and future installation of armoring structures or other emergency response measures.

Currently, the law does not provide construction permit exemptions, pursuant to s. 161.085, F.S. This covers construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, F.S., and to close the gap where a continuous line of rigid coastal armoring structure on either side of unarmored property and the adjacent line of rigid coastal armoring structures are having an adverse effect on or threaten the unarmored property, and the gap does not exceed 100 feet. No pilot projects exist to test such exemptions that may help encourage redevelopment of economically distressed coastal properties to use existing urban infrastructure to the fullest.

Residential Construction Mitigation and Disaster Relief Funding

Specific Appropriation 1258 of the Conference Report on HB 4201 provided for the transfer of \$2,000,000 from the Florida Hurricane Catastrophe Fund for the purpose of providing residential construction mitigation loans. Specific Appropriation 1230 provided an appropriation for state and federal disaster relief operations, including a transfer of \$5,500,000 from the Florida Hurricane Catastrophe Fund for the purpose of meeting the state's match requirement for federally-declared disasters occurring after July 1, 1997.

Red Tide Research

Red tides, in Florida, cause massive fish kills, shellfish contamination, and severe respiratory irritation to residents and visitors of Florida's Gulf coast. In 1996, a red tide bloom resulted in approximately 150 manatee deaths. Because of the severe economic and public health effects of red tide, much consideration has been given to predicting, controlling, and mitigating the blooms. Red tides occur worldwide and are caused by several species of marine phytoplankton, a microscopic plant producing potent chemical toxins. The origin of Florida's red tide is blooms of a single-celled algae called *Gymnodinium breve* ("*G. breve*"). While coastal pollution may enhance red tide blooms in some areas, Florida's red tide appears to result from natural processes not caused by pollution. These red tide blooms are part of the ecology of Florida's gulf coast regions.

Between 40-80 miles offshore in the Gulf of Mexico, red tide blooms result from a massive multiplication of *G. breve*. These blooms are driven by winds and ocean currents towards nutrient-rich, shallow waters where the blooms multiply to harmful levels. At high concentrations, *G. breve* creates a brownish-red sheen on the water's surface. At lower concentrations, the water's surface may appear yellow-green. Some red tide blooms have covered as much as several hundred square miles of water. These blooms enter the bloodstream of fish through their gills and cause fish to die quickly. Filter-feeding shellfish, such as oysters, clams, and mussels consume *G. breve* and concentrate the toxins in several organs, making these shellfish unsafe to harvest and eat. The Department of Environmental Protection must determine that waters and shellfish in an area are free of red tide toxins before shellfish may be harvested. In addition, red tide can cause a variety of symptoms in humans including irritations of the eyes, nose, and throat.

Because focused research into the ecological and oceanographic mechanisms that influence red tide is urgently needed, the National Science Foundation and the National Oceanic and Atmospheric Administration developed a national research agenda to guide research efforts. The goal of the program, Ecology and Oceanography of Harmful Algal Blooms (ECOHAB), is to "develop an understanding of the population dynamics and trophic impacts of harmful algal species which can be used as a basis for minimizing their adverse effects on the economy, public health, and marine ecosystems." ECOHAB relies largely on a comparative approach utilizing data from large-scale, regional field programs and theoretical studies using new or existing models to simulate the dynamics of red tide blooms in different oceanographic systems, rather than limiting its research to a specific study site. While ECOHAB centers its research on the ecology and oceanography of red tide, many other aspects of this phenomenon fall outside this scope and still require research.

Factors that impact red tide and need further research according to Solutions To Avoid Red Tide (S.T.A.R.T.) include: the precise location of initiation zones for blooms, the cause of the bloom initiation, what causes the bloom to die off, what amounts of toxins are produced, how the toxins are released, and at what stage of the life-cycle are toxins produced. This bill is intended to address those research areas not adequately covered by the ECOHAB program. The proposed project will focus on the Florida red tide problem. The project will result in an integrated detection and prediction network for monitoring and responding to the development and movement of red tide blooms on the west Florida shelf and coastal regions. Resource managers, using the applications of

this interactive system, will be able to assess the potential public health and economic damage from a bloom and take appropriate control or mitigation steps.

B. EFFECT OF PROPOSED CHANGES:

This act expands the scope of the Community Redevelopment Act of 1969 to include coastal resort and tourist areas that are deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout. More generally, it expands the definition of "blighted area":

- ▶ It adds "inadequate and outdated building density patterns" to s.163.340(8)(a), F.S., as a factor defining an area as blighted.
- ▶ It also adds "inadequate transportation and parking facilities" to 163.340(8)(a), F.S., which is currently included in the definition of "blighted area" provided in s. 163.340(8)(b), F.S.
- ▶ As a result of this change in definition, areas defined as blighted due to either of these two factors qualify for the tax credits authorized in Ch. 220, F.S.

In addition, the act provides Legislative intent to undertake a pilot project to determine the feasibility of encouraging redevelopment of economically distressed coastal properties to allow full utilization of existing urban infrastructure. The bill directs the Department to administer a pilot project for redeveloping economically distressed coastal resort and tourist areas. The pilot project is located in the coastal areas of Florida's Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet. For a particular area to be eligible, all or part of the area must be within 1) the coastal building zone as defined by s.161.54, F.S. and 2) an economically deprived area as designated by a local government with jurisdiction over the area. Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot projects.

Construction activities seaward of a coastal construction control line (CCCL) and landward of existing armoring within the area of the pilot projects are exempted from certain coastal construction permitting criteria pursuant to s 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. All applicable local land development regulations would continue to apply to such construction.

The Department is authorized to grant the necessary permits to close any "gap" that does not exceed 100 feet in an existing line of rigid coastal armoring structure. Such structures must not cause flooding of or result in adverse impacts to existing upland structures or properties. In addition, permits are granted where there exists a continuous line of viable rigid coastal armoring structure on either side of a non-viable rigid coastal armoring structure. However, such permitting does not apply to rigid coastal armoring structures constructed after May 1, 1998, unless permitted pursuant to s. 161.085(2), F.S.

Construction projects would continue to be reviewed under s. 161.053, F.S., except that structures would not be subject to specific shore parallel coverage requirements (e.g, a

building located on a 100-foot wide lot being able to exceed 60 feet in width) and would be allowed to exceed the 50-percent impervious surface requirement. (Impervious surface is the total surface coverage on a lot that does not allow water to pass through to the ground below, including any structures as well as other impervious surface coverings such as parking lots. This provision would allow more than 50 percent of a lot to be covered with impervious surfaces.) Stormwater discharges onto, or seaward, of the frontal dune are specifically prohibited. Structures approved under the newly created s.163.336, F.S., shall not cause flooding or result in adverse impacts to existing upland structures or properties.

Structures would not be bound by restrictions on excavation if the construction does not adversely impact the existing armoring structure or the existing beach and dune system. The act specifically contemplates that underground structures, including garages, will be permitted. All beach compatible material that is excavated must be maintained on the site seaward of the CCCL.

Authorization for the pilot projects and related provisions expires on December 31, 2002, and are subject to review by the Legislature prior to that date.

CS/SB 1458 also provided the following appropriations:

- ▶ An additional \$500,000 from the Grants and Donations Trust Fund to supplement Specific Appropriation 1258 of the Conference Report on HB 4201, providing funding for residential construction mitigation;
- ▶ An additional \$2,000,000 from the Grants and Donations Trust Fund to supplement Specific Appropriation 1230 of the Conference Report on HB 4201, providing funding for meeting the state's required match for federally-declared disasters after July 1, 1997; and
- ▶ An appropriation of \$1,000,000 from the Coastal Protection Trust Fund to the Department of Environmental Protection for red tide research and mitigation.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. STATUTE(S) AFFECTED:

Amends ss.163.355 , 163.340, and 163.360, F.S., and creates s. 163.336, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amending s. 163.335, F.S., to provide a legislative finding that deteriorating and economically distressed coastal resort and tourist areas can be redeveloped in a manner that improves the economic and social conditions of the community.

Section 2: Amending s. 163.340, F.S., to amend the definitions of “blighted area,” “community redevelopment,” and “community redevelopment area.”

Section 3: Amending s. 163.360, F.S., to provide that approval of the community development plan is also contingent on a finding that the community development plan and resulting revitalization and redevelopment for a coastal tourist area that is deteriorating and economically distressed will reduce or maintain evacuation time, as appropriate and ensure protection for property against exposure to natural disasters.

Section 4: Creating s.163.336, F.S., to provide for a coastal resort area redevelopment pilot project.

Section 5: Providing supplemental appropriations for residential construction mitigation and meeting the state’s match requirement for federally-declared disasters occurring after July 1, 1997.

Section 6: Providing an appropriation for red tide research and mitigation.

Section 7: Providing that the act will take effect upon becoming a law.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The act has the following non-recurring effects:

- ▶ \$500,000 is appropriated from the Grants and Donations Trust Fund to supplement Specific Appropriation 1258 of the Conference Report on HB 4201, providing funding for residential construction mitigation;
- ▶ \$2,000,000 is appropriated from the Grants and Donations Trust Fund to supplement Specific Appropriation 1230 of the Conference Report on HB 4201, providing funding for meeting the state's required match for federally-declared disasters after July 1, 1997; and
- ▶ \$1,000,000 is appropriated from the Coastal Protection Trust Fund to the Department of Environmental Protection for red tide research and mitigation.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Redevelopment and revitalization within the areas of the pilot projects can potentially result in increased tourism and resort expenditures, providing direct economic benefits to business in the area.

3. Effects on Competition, Private Enterprise and Employment Markets:

No adverse effects on competition are anticipated. In addition to the direct economic benefit described in 2. above, more generalized economic benefits can be anticipated, including a positive impact on employment markets.

D. **FISCAL COMMENTS:**

None.

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The act does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The act does not reduce the authority that municipalities or counties have to raise revenues.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The act does not reduce the percentage of state tax shared with counties and municipalities.

VI. COMMENTS:

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VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VIII. SIGNATURES:

FINAL RESEARCH PREPARED BY COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Legislative Research Director:

W. Ray Scott

Wayne S. Kiger