

STORAGE NAME: H4107.ep
DATE: March 18, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4107
RELATING TO: Coastal redevelopment
SPONSOR(S): Representative(s) Wiles; Lynn; Ziebarth
COMPANION BILL(S): SB 1458 (s) by Senator Latvala

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

- (1) ENVIRONMENTAL PROTECTION
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

HB 4107 provides for redevelopment of coastal resort and tourist areas which are deteriorating and economically underutilized. 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 bill creates a pilot project to facilitate and demonstrate techniques for redeveloping economically underutilized coastal resort and tourist areas. The pilot project is to be 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 pilot project areas. In addition, construction within the pilot project areas 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 project and related provisions expire on December 31, 2002, and are subject to review by the Legislature prior to that date.

The bill provides that the act will take effect upon becoming a law.

II. 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.

B. EFFECT OF PROPOSED CHANGES:

HB 4107 would expand the scope of the Community Redevelopment Act of 1969 to include coastal resort and tourist areas that are deteriorating and economically underutilized 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 would qualify for the tax credits authorized in Ch. 220, F.S.

In addition, HB 4107 provides Legislative intent to undertake a pilot project to determine the feasibility of encouraging redevelopment of economically underutilized coastal properties to allow full utilization of existing urban infrastructure. The bill directs the Department to administer a pilot project to facilitate and demonstrate techniques for redeveloping economically underutilized coastal resort and tourist areas. The pilot project is to be 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 pilot project areas.

Construction activities seaward of a coastal construction control line (CCCL) and landward of existing armoring within the pilot projects area 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 "gaps" in an existing line of rigid coastal armoring structure. Construction projects would continue to be reviewed under s. 161.053, F.S., except that structures would be allowed to exceed 60 percent shore parallel coverage (e.g, a building located on a 100-foot wide lot being able to exceed 60 feet in width) and 50-percent impervious surface (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 surface coverings such as parking lots. This provision would allow more than 50 percent of a lot to be covered with impervious surfaces.). 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 bill 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 project and related provisions expire on December 31, 2002, and are subject to review by the Legislature prior to that date.

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 and 163.340, F.S., and creates s. 163.336, F.S.

E. SECTION-BY-SECTION RESEARCH:

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

Section 2: Amends s. 163.340, F.S., amending the definitions of "blighted area," "community redevelopment," and "community redevelopment area."

Section 3: Creates s.163.336, F.S., providing for a coastal resort area redevelopment pilot project.

Section 4: Provides that the act will take effect upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

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 pilot project area 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:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

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

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

V. COMMENTS:

In their analysis of HB 4107, Department staff indicated that the only coastal construction permitting exemption provided for in the bill relates to closing "gaps" in existing seawalls, which is itself a limited exemption. In addition, they expressed the following concerns:

- ▶ The bill places no limit on the size of the gap that can be closed.
- ▶ It does not provide an upper limit on parallel shore coverage. However, they also point out that the 60 percent shore parallel coverage criterion, for which the bill purports to create an exemption, is not a Department criterion.
- ▶ It does not prohibit stormwater discharge onto or seaward of the frontal dune. They also point out that the 50 percent impervious surface criterion, for which the bill purports to create an exemption, is not a Department criterion.
- ▶ The purpose of the pilot project needs to be stated more clearly.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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