

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Constantine

316-1977C-02

1                                   A bill to be entitled  
2           An act relating to growth management; creating  
3           s. 163.3246, F.S.; creating a Local Government  
4           Comprehensive Planning certification Program to  
5           be administered by the Department of Community  
6           Affairs; defining the purpose of the  
7           certification area to designate areas that are  
8           appropriate for urban growth within a 10-year  
9           timeframe; providing for certification  
10          criteria; specifying the contents of the  
11          certification agreement; providing evaluation  
12          criteria; authorizing the Department of  
13          Community Affairs to adopt procedural rules;  
14          providing for the revocation of certification  
15          agreements; providing for the rights of  
16          affected persons to challenge local government  
17          compliance with certification agreements;  
18          eliminating state and regional review of  
19          certain local comprehensive plan amendments  
20          within certified areas; providing exceptions;  
21          providing for the periodic review of a local  
22          government's certification by the Department of  
23          Community Affairs; requiring the submission of  
24          biennial reports to the Governor and  
25          Legislature; providing for review of the  
26          certification program by the Office of Program  
27          Policy Analysis and Government Accountability;  
28          amending s. 163.3191, F.S.; requiring local  
29          governments within coastal high-hazard areas to  
30          address certain issues in the evaluation and  
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1 appraisal of their comprehensive plans;  
2 providing an effective date.

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4 Be It Enacted by the Legislature of the State of Florida:

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6 Section 1. Section 163.3246, Florida Statutes, is  
7 created to read:

8 163.3246 Local government comprehensive planning  
9 certification program.--

10 (1) There is created the Local Government  
11 Comprehensive Planning Certification Program to be  
12 administered by the Department of Community Affairs. The  
13 purpose of the program is to create a certification process  
14 for local governments who identify a geographic area for  
15 certification within which they commit to directing growth and  
16 who, because of a demonstrated record of effectively adopting,  
17 implementing, and enforcing its comprehensive plan, the level  
18 of technical planning experience exhibited by the local  
19 government, and a commitment to implement exemplary planning  
20 practices, require less state and regional oversight of the  
21 comprehensive plan amendment process. The purpose of the  
22 certification area is to designate areas that are contiguous,  
23 compact, and appropriate for urban growth and development  
24 within a 10-year planning timeframe. Municipalities and  
25 counties are encouraged to jointly establish the certification  
26 area, and subsequently enter into joint certification  
27 agreement with the department.

28 (2) In order to be eligible for certification under  
29 the program, the local government must:

30 (a) Demonstrate a record of effectively adopting,  
31 implementing, and enforcing its comprehensive plan;

1           (b) Demonstrate technical, financial, and  
2 administrative expertise to implement the provisions of this  
3 part without state oversight;

4           (c) Obtain comments from the state and regional review  
5 agencies regarding the appropriateness of the proposed  
6 certification;

7           (d) Hold at least one public hearing soliciting public  
8 input concerning the local government's proposal for  
9 certification; and

10           (e) Demonstrate that it has adopted programs in its  
11 local comprehensive plan and land development regulations  
12 which:

13           1. Promote infill development and redevelopment,  
14 including prioritized and timely permitting processes in which  
15 applications for local development permits within the  
16 certification area are acted upon expeditiously for proposed  
17 development that is consistent with the local comprehensive  
18 plan.

19           2. Promote the development of housing for low-income  
20 and very-low-income households or specialized housing to  
21 assist elderly and disabled persons to remain at home or in  
22 independent living arrangements.

23           3. Achieve effective intergovernmental coordination  
24 and address the extrajurisdictional effects of development  
25 within the certified area.

26           4. Promote economic diversity and growth while  
27 encouraging the retention of rural character, where rural  
28 areas exist, and the protection and restoration of the  
29 environment.

30           5. Provide and maintain public urban and rural open  
31 space and recreational opportunities.

1           6. Manage transportation and land uses to support  
2 public transit and promote opportunities for pedestrian and  
3 nonmotorized transportation.

4           7. Use design principles to foster individual  
5 community identity, create a sense of place, and promote  
6 pedestrian-oriented safe neighborhoods and town centers.

7           8. Redevelop blighted areas.

8           9. Adopt a local mitigation strategy and have programs  
9 to improve disaster preparedness and the ability to protect  
10 lives and property, especially in coastal high-hazard areas.

11           10. Encourage clustered, mixed-use development that  
12 incorporates greenspace and residential development within  
13 walking distance of commercial development.

14           11. Encourage urban infill at appropriate densities  
15 and intensities and separate urban and rural uses and  
16 discourage urban sprawl while preserving public open space and  
17 planning for buffer-type land uses and rural development  
18 consistent with their respective character along and outside  
19 the certification area.

20           12. Assure protection of key natural areas and  
21 agricultural lands that are identified using state and local  
22 inventories of natural areas. Key natural areas include, but  
23 are not limited to:

24           a. Wildlife corridors.

25           b. Lands with high native biological diversity,  
26 important areas for threatened and endangered species, species  
27 of special concern, migratory bird habitat, and intact natural  
28 communities.

29           c. Significant surface waters and springs, aquatic  
30 preserves, wetlands, and outstanding Florida waters.

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1           d. Water resources suitable for preservation of  
2 natural systems and for water resource development.

3           e. Representative and rare native Florida natural  
4 systems.

5           13. Ensure the cost-efficient provision of public  
6 infrastructure and services.

7           (3) Portions of local governments located within areas  
8 of critical state concern cannot be included in a  
9 certification area.

10           (4) A local government or group of local governments  
11 seeking certification of all or part of a jurisdiction or  
12 jurisdictions must submit an application to the department  
13 which demonstrates that the area sought to be certified meets  
14 the criteria of subsections (2) and (5). The application shall  
15 include copies of the applicable local government  
16 comprehensive plan, land development regulations, interlocal  
17 agreements, and other relevant information supporting the  
18 eligibility criteria for designation. Upon receipt of a  
19 complete application, the department must provide the local  
20 government with an initial response to the application within  
21 90 days after receipt of the application.

22           (5) If the local government meets the eligibility  
23 criteria of subsection (2), the department shall certify all  
24 or part of a local government by written agreement, which  
25 shall be considered final agency action subject to challenge  
26 under s. 120.569. The agreement must include the following  
27 components:

28           (a) The basis for certification.

29           (b) The boundary of the certification area, which  
30 encompasses areas that are contiguous, compact, appropriate  
31 for urban growth and development, and in which public

1 infrastructure is existing or planned within a 10-year  
2 planning timeframe. The certification area is required to  
3 include sufficient land to accommodate projected population  
4 growth, housing demand, including choice in housing types and  
5 affordability, job growth and employment, appropriate  
6 densities and intensities of use to be achieved in new  
7 development and redevelopment, existing or planned  
8 infrastructure, including transportation and central water and  
9 sewer facilities. The certification area must be adopted as  
10 part of the local government's comprehensive plan.

11 (c) A demonstration that the capital-improvements plan  
12 governing the certified area is updated annually.

13 (d) A visioning plan or a schedule for the development  
14 of a visioning plan.

15 (e) A description of baseline conditions related to  
16 the evaluation criteria in paragraph (g) in the certified  
17 area.

18 (f) A work program setting forth specific planning  
19 strategies and projects that will be undertaken to achieve  
20 improvement in the baseline conditions as measured by the  
21 criteria identified in paragraph (g).

22 (g) Criteria to evaluate the effectiveness of the  
23 certification process in achieving the community-development  
24 goals for the certification area including:

25 1. Measuring the compactness of growth, expressed as  
26 the ratio between population growth and land consumed;

27 2. Increasing residential density and intensities of  
28 use;

29 3. Measuring and reducing vehicle miles traveled and  
30 increasing the interconnectedness of the street system,  
31 pedestrian access, and mass transit;

1           4. Measuring the balance between the location of jobs  
2 and housing;

3           5. Improving the housing mix within the certification  
4 area, including the provision of mixed-use neighborhoods,  
5 affordable housing, and the creation of an affordable housing  
6 program if such a program is not already in place;

7           6. Promoting mixed-use developments as an alternative  
8 to single-purpose centers;

9           7. Promoting clustered development having dedicated  
10 open space;

11           8. Linking commercial, educational, and recreational  
12 uses directly to residential growth;

13           9. Reducing per capita water and energy consumption;

14           10. Prioritizing environmental features to be  
15 protected and adopting measures or programs to protect  
16 identified features;

17           11. Reducing hurricane shelter deficits and evacuation  
18 times and implementing the adopted mitigation strategies; and

19           12. Improving coordination between the local  
20 government and school board.

21           (h) A commitment to change any land development  
22 regulations that restrict compact development and adopt  
23 alternative design codes that encourage desirable densities  
24 and intensities of use and patterns of compact development  
25 identified in the agreement.

26           (i) A plan for increasing public participation in  
27 comprehensive planning and land use decision making which  
28 includes outreach to neighborhood and civic associations  
29 through community planning initiatives.

30           (j) A demonstration that the intergovernmental  
31 coordination element of the local government's comprehensive

1 plan includes joint processes for coordination between the  
2 school board and local government pursuant to s.  
3 163.3177(6)(h)2. and other requirements of law.

4 (k) A method of addressing the extrajurisdictional  
5 effects of development within the certified area which is  
6 integrated by amendment into the intergovernmental  
7 coordination element of the local government comprehensive  
8 plan.

9 (l) A requirement for the annual reporting to the  
10 department of plan amendments adopted during the year, and the  
11 progress of the local government in meeting the terms and  
12 conditions of the certification agreement. Prior to the  
13 deadline for the annual report, the local government must hold  
14 a public hearing soliciting public input on the progress of  
15 the local government in satisfying the terms of the  
16 certification agreement.

17 (m) An expiration date that is no later than 10 years  
18 after execution of the agreement.

19 (6) The department may enter up to eight new  
20 certification agreements each fiscal year. The department  
21 shall adopt procedural rules governing the application and  
22 review of local government requests for certification. Such  
23 procedural rules may establish a phased schedule for review of  
24 local government requests for certification.

25 (7) The department shall revoke the local government's  
26 certification if it determines that the local government is  
27 not substantially complying with the terms of the agreement.

28 (8) An affected person, as defined by s.  
29 163.3184(1)(a), may petition for administrative hearing  
30 alleging that a local government is not substantially  
31 complying with the terms of the agreement, using the

1 procedures and timeframes for notice and conditions precedent  
2 described in s. 163.3213. Such a petition must be filed within  
3 30 days after the annual public hearing required by paragraph  
4 (5)(1).

5 (9)(a) Upon certification all comprehensive plan  
6 amendments associated with the area certified must be adopted  
7 and reviewed in the manner described in ss. 163.3184(1), (2),  
8 (7), (14), (15), and (16) and 163.3187, such that state and  
9 regional agency review is eliminated. The department may not  
10 issue any objections, recommendations, and comments report on  
11 proposed plan amendments or a notice of intent on adopted plan  
12 amendments; however, affected persons, as defined by s.  
13 163.3184(1)(a), may file a petition for administrative review  
14 pursuant to the requirements of s. 163.3187(3)(a) to challenge  
15 the compliance of an adopted plan amendment.

16 (b) Plan amendments that change the boundaries of the  
17 certification area; propose a rural land stewardship area  
18 pursuant to s. 163.3177(11)(d); propose an optional sector  
19 plan pursuant to s. 163.3245; propose a school facilities  
20 element; update a comprehensive plan based on an evaluation  
21 and appraisal report; impact lands outside the certification  
22 boundary; implement new statutory requirements that require  
23 specific comprehensive plan amendments; or increase hurricane  
24 evacuation times or the need for shelter capacity on lands  
25 within the coastal high hazard area shall be reviewed pursuant  
26 to ss. 163.3184 and 163.3187.

27 (10) A local government's certification shall be  
28 reviewed by the local government and the department as part of  
29 the evaluation and appraisal process pursuant to s. 163.3191.  
30 Within 1 year after the deadline for the local government to  
31 update its comprehensive plan based on the evaluation and

1 appraisal report, the department shall renew or revoke the  
2 certification. The local government's failure to adopt a  
3 timely evaluation and appraisal report, failure to adopt an  
4 evaluation and appraisal report found to be sufficient, or  
5 failure to timely adopt amendments based on an evaluation and  
6 appraisal report found to be in compliance by the department  
7 shall be cause for revoking the certification agreement. The  
8 department's decision to renew or revoke shall be considered  
9 agency action subject to challenge under s. 120.569.

10 (11) The department shall, by July 1 of each  
11 odd-numbered year, submit to the Governor, the President of  
12 the Senate, and the Speaker of the House of Representatives a  
13 report listing certified local governments, evaluating the  
14 effectiveness of the certification, and including any  
15 recommendations for legislative actions.

16 (12) The Office of Program Policy Analysis and  
17 Government Accountability shall prepare a report evaluating  
18 the certification program, which shall be submitted to the  
19 Governor, the President of the Senate, and the Speaker of the  
20 House of Representatives by December 1, 2007.

21 Section 2. Paragraph (1) is added to subsection (2) of  
22 section 163.3191, Florida Statutes, to read:

23 163.3191 Evaluation and appraisal of comprehensive  
24 plan.--

25 (2) The report shall present an evaluation and  
26 assessment of the comprehensive plan and shall contain  
27 appropriate statements to update the comprehensive plan,  
28 including, but not limited to, words, maps, illustrations, or  
29 other media, related to:

30 (1) If any of the jurisdiction of the local government  
31 is located within the coastal high-hazard area, an evaluation

1 of whether any past reduction in land use density impairs the  
2 property rights of current residents when redevelopment  
3 occurs, including, but not limited to, redevelopment following  
4 a natural disaster. The local government must identify  
5 strategies to address redevelopment feasibility and the  
6 property rights of affected residents. These strategies may  
7 include the authorization of redevelopment up to the actual  
8 built density in existence on the property prior to the  
9 natural disaster or redevelopment.

10 Section 3. This act shall take effect upon becoming a  
11 law.

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13 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
14 COMMITTEE SUBSTITUTE FOR  
15 Senate Bill 1464

16 Creates a Local Government Comprehensive Planning  
17 Certification program to be administered by the Department of  
18 Community Affairs (DCA) to reward local governments who: 1)  
19 direct growth to areas within a certification boundary; 2)  
20 have a record of effectively implementing and enforcing their  
21 local comprehensive plan; and 3) agree to implement certain  
22 exemplary planning practices, with less state and regional  
23 oversight over the comprehensive plan amendment process. The  
24 bill includes eligibility criteria, defines the content of  
25 certification agreements, and provides for the oversight and  
26 revocation of a local government's certification.  
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