

By the Committees on Comprehensive Planning; Military and Veterans' Affairs, Base Protection, and Spaceports; and Senators Clary, Peaden and Fasano

316-2239-03

1 A bill to be entitled
2 An act relating to military readiness; creating
3 s. 163.3175, F.S.; providing legislative
4 findings relating to the compatibility of
5 development with military installations;
6 providing for an exchange of information
7 between certain local governments and military
8 installations; requiring the local government
9 to consider the comments of the commanding
10 officer of a military installation relating to
11 potential adverse effects on the installation
12 which may result from rezonings or changes in
13 land use; amending s. 163.3177, F.S.; providing
14 that an element relating to military readiness
15 is a mandatory element of the comprehensive
16 plans for certain local governments; requiring
17 the local governments to seek advice from
18 individuals who may be affected by this
19 element; providing factors that must be
20 considered in connection with this element;
21 requiring the local governments to update the
22 military readiness element by June 30, 2004;
23 amending s. 163.3187, F.S.; exempting from
24 certain restrictions on the adoption of
25 amendments to comprehensive plans an amendment
26 relating to military readiness; amending s.
27 163.3167, F.S.; prohibiting certain judicial
28 abrogation of quasi-judicial development orders
29 issued by local governments; providing for
30 retroactive application; providing effective
31 dates.

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

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3 Section 1. Section 163.3175, Florida Statutes, is
4 created to read:

5 163.3175 Legislative findings on compatibility of
6 development with military installations; exchange of
7 information between local governments and military
8 installations.--

9 (1) The Legislature finds that incompatible
10 development of land close to military installations can
11 adversely affect the ability of such an installation to carry
12 out its mission. The Legislature further finds that such
13 development also threatens the public safety because of the
14 possibility of accidents occurring within the areas
15 surrounding a military installation. In addition, the economic
16 health of a community is affected if military operations and
17 missions must relocate because of urban encroachment.
18 Therefore, the Legislature finds it desirable for the local
19 governments in the state to cooperate with military
20 installations to encourage compatible land use, help prevent
21 encroachment, and facilitate the continued presence of major
22 military installations in this state.

23 (2) In any county that has a military installation
24 located within or adjacent to its boundaries, each local
25 government, including the county government, must transmit to
26 the commanding officer of the military installation
27 information regarding proposed changes in land use or proposed
28 rezonings that would, if approved, affect the intensity or
29 density or use of the property that is the subject of the
30 application and is within an area of interest identified by
31 the base commander. The commanding officer or his or her

1 designee may submit to the local government written comments
2 regarding any adverse effects that the proposed changes or
3 rezonings may have on military installations, operating areas,
4 or ranges, including, but not limited to, the commanding
5 officer's opinion as to whether those proposed changes will
6 violate the safety and noise standards contained in the Air
7 Installation Compatible Use Zone (AICUZ) prepared for a
8 military airfield or whether the changes are incompatible with
9 the Installation Environmental Noise Management Program
10 (IENMP) of the United States Army. The commanding officer may
11 copy the state land planning agency with any comments on
12 proposed comprehensive plan changes. The commanding officer is
13 encouraged to include information about any community planning
14 assistance grants that might be available to the local
15 government through the federal Office of Economic Adjustment,
16 as an incentive for communities to participate in a joint
17 planning process that would facilitate the compatibility of
18 community planning and activities vital to the national
19 defense. The local government shall take the comments of the
20 commanding officer or his or her designee into consideration
21 when rezoning or making changes in land use.

22 (3) As used in this section, the term "military
23 installation" means a base, camp, post, station, yard, center,
24 homeport facility for any ship, or other location under the
25 jurisdiction of the Department of Defense, including any
26 leased facility. Such term does not include any facility used
27 primarily for civil works, rivers and harbors projects, or
28 flood control projects.

29 Section 2. Paragraph (1) is added to subsection (6) of
30 section 163.3177, Florida Statutes, to read:

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1 163.3177 Required and optional elements of
2 comprehensive plan; studies and surveys.--

3 (6) In addition to the requirements of subsections
4 (1)-(5), the comprehensive plan shall include the following
5 elements:

6 (1) For each unit of local government impacted by a
7 military installation within or adjacent to its boundaries, a
8 military readiness element. In preparing to adopt this
9 element, the local government must seek advice from residents
10 of the county and others who are likely to be affected by the
11 provisions therein, including, but not limited to, builders
12 and developers, conservation groups, representatives of the
13 armed services, and neighborhood groups.

14 1. The military readiness element must take into
15 consideration how the public health, safety, and welfare is
16 likely to be affected by the proximity of development to
17 military installations, operating areas, and ranges and must
18 make reasonable provision for preserving open space and
19 compatible land uses near a military installation.

20 2. The military readiness element must also take into
21 consideration the findings of the Department of Defense Joint
22 Land Use Study Program, which promotes incorporating the
23 findings of the Air Installation Compatible Use Zone (AICUZ)
24 and of the Installation Environmental Noise Management Program
25 (IENMP, which was formerly the Installation Compatible Use
26 Zone, or ICUZ, program).

27 3. In counties that contain or border on a military
28 airfield, the military readiness element must take into
29 consideration the extent to which the use of land surrounding
30 the airfield is consistent with the safety and noise standards
31 contained in the AICUZ prepared for that military airfield.

1 4. Local governments required to update or amend their
2 comprehensive plan to include a military readiness element
3 pursuant to this act shall transmit the update or amendment to
4 the department by June 30, 2004.

5 Section 3. Paragraph (m) is added to subsection (1) of
6 section 163.3187, Florida Statutes, to read:

7 163.3187 Amendment of adopted comprehensive plan.--

8 (1) Amendments to comprehensive plans adopted pursuant
9 to this part may be made not more than two times during any
10 calendar year, except:

11 (m) A comprehensive plan amendment relating to
12 military readiness may be made at any time and does not count
13 toward the limitation on the frequency of plan amendments.

14 Section 4. Effective upon this act becoming law,
15 subsection (13) is added to section 163.3167, Florida
16 Statutes, to read:

17 163.3167 Scope of act.--

18 (13)(a) If a local government grants a quasi-judicial
19 development order pursuant to its adopted land development
20 regulations and the order is not the subject of a pending
21 appeal, the right to commence and complete development
22 pursuant to the order may not be abrogated by a subsequent
23 judicial determination that such land development regulations
24 are invalid because of a deficiency in the approval standards.

25 (b) This subsection does not preclude or affect the
26 timely institution of a common law writ of certiorari
27 proceeding pursuant to Rule 9.190, Florida Rules of Appellate
28 Procedure or original proceedings pursuant to s. 163.3215.

29 (c) This subsection applies retroactively to any order
30 granted on or after January 1, 2002.

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1 Section 5. This act shall take effect July 1, 2003,
2 except that this section and section 4 of this act shall take
3 effect upon becoming a law.

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5 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
6 COMMITTEE SUBSTITUTE FOR
7 CS/SB 2152

8 The committee substitute amends s. 163.3167, F.S., to provide
9 that a quasi-judicial development order issued by a local
10 government which is not the subject of a pending appeal, may
11 not be abrogated by a subsequent judicial determination that
12 such land development regulations are invalid because of a
13 deficiency in approval standards. This new subsection of
14 Florida Statutes takes effect upon becoming law and
15 retroactively applies to January 1, 2002. The committee
16 substitute also has a technical change and a clarification.
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