

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 amending s. 163.3164, F.S.; providing a
7 definition of military installations; amending
8 s. 163.3177, F.S.; providing for consideration
9 of the compatibility with military
10 installations in developing a future land use
11 element to a comprehensive plan; providing for
12 the state land planning agency to coordinate
13 with the Department of Defense on use
14 compatibility issues relating to military
15 installations; creating s. 163.31779, F.S.;
16 requiring certain counties and municipalities
17 to enter into memoranda of agreement with
18 military installations to coordinate future
19 land use changes, local government
20 comprehensive plans, land development
21 regulations, and development orders; requiring
22 a schedule for completion of such agreements;
23 requiring local governments to seek public
24 advice on such agreements; identifying
25 provisions that must be included in such
26 agreements at a minimum; requiring such
27 agreements to be consistent with adopted
28 comprehensive plans or amendments to such plans
29 adopted within one year after execution of the
30 agreement; providing for the provision of
31 information regarding community planning

1 assistance grants; amending s. 163.3187, F.S.;
2 exempting from certain restrictions on the
3 adoption of amendments to comprehensive plans
4 an amendment that addresses compatibility with
5 military installations based on a memorandum of
6 agreement; amending s. 163.3191, F.S.;
7 requiring an evaluation of the success or
8 failure of the military installation memorandum
9 of agreement in resolving land use
10 compatibility; amending s. 163.3167, F.S.;
11 prohibiting certain judicial abrogation of
12 quasi-judicial development orders issued by
13 local governments; providing for retroactive
14 application; providing effective dates.

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

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18 Section 1. Section 163.3175, Florida Statutes, is
19 created to read:

20 163.3175 Legislative findings on compatibility of
21 development with military installations; exchange of
22 information between local governments and military
23 installations.--

24 (1) The Legislature finds that incompatible
25 development of land close to military installations can
26 adversely affect the ability of such an installation to carry
27 out its mission. The Legislature further finds that such
28 development also threatens the public safety because of the
29 possibility of accidents occurring within the areas
30 surrounding a military installation. In addition, the economic
31 health of a community is affected if military operations and

1 missions must relocate because of urban encroachment.

2 Therefore, the Legislature finds it desirable for the local
3 governments in the state to cooperate with military
4 installations to encourage compatible land use, help prevent
5 encroachment, and facilitate the continued presence of major
6 military installations in this state.

7 Section 2. Subsection (32) is added to section
8 163.3164, Florida Statutes, to read:

9 163.3164 Local Government Comprehensive Planning and
10 Land Development Regulation Act; definitions.--As used in this
11 act:

12 (32) "Military installation" means a base, camp, post,
13 homeport facility for any ship, or other location under the
14 jurisdiction of the Department of Defense, including any
15 leased facility. Such term does not include any facility used
16 primarily for civil works, docking facilities, rivers and
17 harbors projects, or flood control projects.

18 Section 3. Paragraph (a) of subsection (6) and
19 paragraph (1) of subsection (10) of section 163.3177, Florida
20 Statutes, are amended to read:

21 163.3177 Required and optional elements of
22 comprehensive plan; studies and surveys.--

23 (6) In addition to the requirements of subsections
24 (1)-(5), the comprehensive plan shall include the following
25 elements:

26 (a) A future land use plan element designating
27 proposed future general distribution, location, and extent of
28 the uses of land for residential uses, commercial uses,
29 industry, agriculture, recreation, conservation, education,
30 public buildings and grounds, other public facilities, and
31 other categories of the public and private uses of land. Each

1 future land use category must be defined in terms of uses
2 included, and must include standards to be followed in the
3 control and distribution of population densities and building
4 and structure intensities. The proposed distribution,
5 location, and extent of the various categories of land use
6 shall be shown on a land use map or map series which shall be
7 supplemented by goals, policies, and measurable objectives.
8 The future land use plan shall be based upon surveys, studies,
9 and data regarding the area, including the amount of land
10 required to accommodate anticipated growth; the projected
11 population of the area; the character of undeveloped land; the
12 availability of public services; the need for redevelopment,
13 including the renewal of blighted areas and the elimination of
14 nonconforming uses which are inconsistent with the character
15 of the community; the compatibility with military
16 installations; and, in rural communities, the need for job
17 creation, capital investment, and economic development that
18 will strengthen and diversify the community's economy. The
19 future land use plan may designate areas for future planned
20 development use involving combinations of types of uses for
21 which special regulations may be necessary to ensure
22 development in accord with the principles and standards of the
23 comprehensive plan and this act. In addition, for rural
24 communities, the amount of land designated for future planned
25 industrial use shall be based upon surveys and studies that
26 reflect the need for job creation, capital investment, and the
27 necessity to strengthen and diversify the local economies, and
28 shall not be limited solely by the projected population of the
29 rural community. The future land use plan of a county may also
30 designate areas for possible future municipal incorporation.
31 The land use maps or map series shall generally identify and

1 depict historic district boundaries and shall designate
2 historically significant properties meriting protection. The
3 future land use element must clearly identify the land use
4 categories in which public schools are an allowable use. When
5 delineating the land use categories in which public schools
6 are an allowable use, a local government shall include in the
7 categories sufficient land proximate to residential
8 development to meet the projected needs for schools in
9 coordination with public school boards and may establish
10 differing criteria for schools of different type or size.
11 Each local government shall include lands contiguous to
12 existing school sites, to the maximum extent possible, within
13 the land use categories in which public schools are an
14 allowable use. All comprehensive plans must comply with the
15 school siting requirements of this paragraph no later than
16 October 1, 1999. The failure by a local government to comply
17 with these school siting requirements by October 1, 1999, will
18 result in the prohibition of the local government's ability to
19 amend the local comprehensive plan, except for plan amendments
20 described in s. 163.3187(1)(b), until the school siting
21 requirements are met. Amendments proposed by a local
22 government for purposes of identifying the land use categories
23 in which public schools are an allowable use or for adopting
24 or amending the school-siting maps pursuant to s. 163.31776(3)
25 are exempt from the limitation on the frequency of plan
26 amendments contained in s. 163.3187. The future land use
27 element shall include criteria that encourage the location of
28 schools proximate to urban residential areas to the extent
29 possible and shall require that the local government seek to
30 collocate public facilities, such as parks, libraries, and
31 community centers, with schools to the extent possible and to

1 encourage the use of elementary schools as focal points for
2 neighborhoods. For schools serving predominantly rural
3 counties, defined as a county with a population of 100,000 or
4 fewer, an agricultural land use category shall be eligible for
5 the location of public school facilities if the local
6 comprehensive plan contains school siting criteria and the
7 location is consistent with such criteria.

8 (10) The Legislature recognizes the importance and
9 significance of chapter 9J-5, Florida Administrative Code, the
10 Minimum Criteria for Review of Local Government Comprehensive
11 Plans and Determination of Compliance of the Department of
12 Community Affairs that will be used to determine compliance of
13 local comprehensive plans. The Legislature reserved unto
14 itself the right to review chapter 9J-5, Florida
15 Administrative Code, and to reject, modify, or take no action
16 relative to this rule. Therefore, pursuant to subsection (9),
17 the Legislature hereby has reviewed chapter 9J-5, Florida
18 Administrative Code, and expresses the following legislative
19 intent:

20 (1) The state land planning agency shall consider land
21 use compatibility issues in the vicinity of all airports in
22 coordination with the Department of Transportation, and for
23 military installations in coordination with the Department of
24 Defense.

25 Section 4. Section 163.31779, Florida Statutes, is
26 created to read:

27 163.31779 Military Installation Memorandum of
28 Agreement.--

29 (1)(a) The county or counties in which a military
30 installation is either wholly or partially located and those
31 municipalities adjacent to or proximate to the military

1 installation, as determined by the state land planning agency
2 based on the recommendations of the governing bodies of the
3 affected counties and municipalities and the commanding
4 officer whose primary responsibility is the operation of the
5 military installation, shall enter into a memorandum of
6 agreement with the military installation to coordinate future
7 land use changes including the local government comprehensive
8 plan, land development regulations, and development orders.

9 (b) The agreements shall be completed in accordance
10 with a schedule published by the state land planning agency.
11 The schedule must establish staggered due dates for completion
12 of such agreements that are executed by both the local
13 government and the military installation, concluding by July
14 1, 2004.

15 (c) The military installation, the county or counties
16 in which the military installation either wholly or partially
17 is located and the affected municipalities that are adjacent
18 to or proximate to the military installation as determined by
19 the state land planning agency are encouraged to adopt a
20 single memorandum of agreement to which all join as parties.
21 The state land planning agency shall assemble and make
22 available model agreements meeting the requirements of this
23 section and shall notify local governments and military
24 installations of the requirements of this section. The state
25 land planning agency shall be available to informally review
26 proposed agreements.

27 (2) In preparing to adopt a memorandum of agreement,
28 the local government must seek advice from residents of the
29 local government and others who are likely to be affected by
30 its provisions including, but not limited to; builders,
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1 developers, conservation groups, representatives of the United
2 States Armed Services, and neighborhood groups.

3 (3) At a minimum, the memorandum of agreement must:

4 (a) Coordinate planning activities between the local
5 government and military installation to determine how the
6 public health, safety, and welfare is likely to be affected by
7 the proximity of development to the military installation,
8 operating areas, and ranges.

9 (b) Coordinate planning activities between the local
10 government and military installation to make reasonable
11 provisions for preserving open space and compatible land uses
12 near the military installation.

13 (c) Coordinate planning activities between the local
14 government and military installation to evaluate land
15 proximate to the military installation taking into
16 consideration the findings of any Department of Defense Joint
17 Land Use Study Program, or the findings of any Air
18 Installation Compatible Use Zone (AICUZ) and of any
19 Installation Environmental Noise Management Program (IENMP,
20 which was formerly the Installation Compatible Use Zone, or
21 ICUZ, program).

22 (d) Provide for a process by which the affected local
23 governments and military installation coordinate and share
24 information relating to comprehensive plans and plan
25 amendments, land development regulations and changes thereto
26 including zoning changes, and development orders. The
27 affected local governments shall provide the military
28 installation an opportunity to review and comment on
29 comprehensive plans, plan amendments, land development
30 regulations and changes thereto, and development orders. The
31 local government shall consider those comments, if any, when

1 adopting such plans or regulations or when approving
2 development orders. Comments on plan amendments may be
3 provided to the Department for consideration in its compliance
4 review.

5 (e) Provide for the resolution of disputes between the
6 military and local governments, which may include the dispute
7 resolution processes contained in chapters 164 and 186.

8 (f) Provide for an oversight process, including an
9 opportunity for public participation, for the implementation
10 of the memorandum of agreement.

11 (g) Provide for the identification of amendments to
12 the comprehensive plan needed to ensure compatibility with the
13 military installation and consistency with the interlocal
14 agreement.

15 (4) A memorandum of agreement entered into pursuant to
16 this section must be consistent with the adopted comprehensive
17 plan, or an amendment to such plan adopted within one year
18 after execution of the agreement, and land development
19 regulations of any local government that is a signatory.

20 (5) The commanding officer whose primary
21 responsibility is the operation of the military installation
22 is encouraged to provide information about any community
23 planning assistance grants that might be available to the
24 local government through the federal Office of Economic
25 Adjustment, as an incentive for communities to participate in
26 the Joint Land Use Study Program to facilitate the
27 compatibility of community planning and activities vital to
28 the national defense.

29 Section 5. A new paragraph (m) is added to subsection
30 (1) of section 163.3187, Florida Statutes, to read:

31 163.3187 Amendment of adopted comprehensive plan.--

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

4 (m) A comprehensive plan amendment that addresses
5 compatibility with military installations pursuant to the
6 military installation memorandum of agreement, does not count
7 toward the limitation on the frequency of plan amendments.

8 Section 6. A new paragraph (n) is added to subsection
9 (2) of section 163.3191, Florida Statutes, to read:

10 163.3191 Evaluation and appraisal of comprehensive
11 plan.--

12 (2) The report shall present an evaluation and
13 assessment of the comprehensive plan and shall contain
14 appropriate statements to update the comprehensive plan,
15 including, but not limited to, words, maps, illustrations, or
16 other media, related to:

17 (n) An evaluation of the success or failure of the
18 military installation memorandum of agreement in resolving
19 land use compatibility in the proximity of military
20 installations.

21 Section 7. Effective upon this act becoming law,
22 subsection (13) is added to section 163.3167, Florida
23 Statutes, to read:

24 163.3167 Scope of act.--

25 (13)(a) If a local government grants a quasi-judicial
26 development order pursuant to its adopted land development
27 regulations and the order is not the subject of a pending
28 appeal, the right to commence and complete development
29 pursuant to the order may not be abrogated by a subsequent
30 judicial determination that such land development regulations

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1 or any portion thereof are invalid because of a deficiency in
2 the approval standards.

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

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

9 Section 8. This act shall take effect July 1, 2003,
10 except that this section and section 4 of this act shall take
11 effect upon becoming a law.

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