

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 435 w/CS Coastal Redevelopment Hazard Mitigation  
**SPONSOR(S):** Carassas  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1) <u>Natural Resources</u>	<u>15 Y, 0 N</u>	<u>Lotspeich</u>	<u>Lotspeich</u>
2) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

HB 435 creates “The Coastal Redevelopment Hazard Mitigation Demonstration Act.” It amends Sections 163.3177 and 163.3178, F.S. to require coastal counties and municipalities to include in the coastal management element of their comprehensive plans policies that address objectives and principles for the implementation of hazard mitigation strategies.

The bill also creates a demonstration project for up to five local governments that would permit them to amend their comprehensive plans to allow for redevelopment of coastal areas within designated high hazard areas. The bill sets forth the conditions for eligibility for the demonstration project and gives the Department of Community Affairs authority over the administration of the project.

The bill increases the planning requirements on coastal counties and municipalities by requiring the inclusion of additional provisions in the coastal management element of their comprehensive plans. However, through the creation of the demonstration project, it provides more flexibility to those local governments to redevelop areas within coastal high hazard areas that would otherwise not be allowed to be redeveloped. Allowing the redevelopment of properties in coastal areas could have a significant positive economic impact on property owners and developers and a corresponding positive economic impact on local governments due to increased property values.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain: *While the bill increases planning requirements for coastal local governments, the bill provides more flexibility to coastal local governments to redevelop areas within coastal high hazard areas.*

#### B. EFFECT OF PROPOSED CHANGES:

##### **Issue – Coastal hazard mitigation strategies**

###### **Present Situation**

Under Part II of ch. 373, F.S., each local government is required to adopt a comprehensive plan to guide future development within its jurisdiction. Each comprehensive plan is required to include certain “elements” that address different aspects of growth management (for example a “future land use element”).<sup>1</sup> Those local governments in coastal areas of the state are required to include a “coastal management element.”<sup>2</sup> The coastal management element is required to set forth policies to guide the local governments’ decisions and program implementation with respect to certain listed objectives. Included in the listed objectives is “the protection of human life against the effects of natural disasters.” Each coastal management element is also required to contain a component which outlines principles for hazard mitigation and protection of human life against the effects of natural disasters.

###### **Effect of Proposed Changes**

The bill requires that the coastal management element address not only the objective of “the protection of human life against the effects of natural disasters”, but also “the implementation of hazard mitigation strategies.” The bill also requires that the coastal management element include a component which not only outlines principles for hazard mitigation and protection of human life but also principles for the protection of **property** and “local hazard mitigation strategies.”

The bill provides a definition of “local hazard mitigation strategy” which is “a local plan required under the Federal Stafford Act to promote hazard mitigation and to manage postdisaster redevelopment and recovery.” The Stafford Act emphasizes the need for state and local entities to coordinate mitigation planning and requires a state mitigation plan as a condition of federal disaster assistance.

##### **Issue - Redevelopment of coastal areas – demonstration project**

###### **Present Situation**

Coastal local governments are required to include in their coastal elements the designation of “high-hazard coastal areas” which are defined as category 1 evacuation zones. Under current growth

<sup>1</sup> See s. 163.3177, F.S.

<sup>2</sup> See s. 163.3178, F.S.

management law, local governments are restricted from allowing development in these areas that would increase the density or intensity of the current land use.

### **Effect of Proposed Changes**

The bill creates the opportunity for a “demonstration project” whereby up to five local governments could amend their comprehensive plans to allow for the redevelopment of coastal areas within the designated coastal high hazard area. The local government would submit an application for the demonstration project to the Department of Community Affairs (Department) with the participation of the county emergency management agency. To be eligible for the demonstration project the project would have to meet certain conditions, which include:

1. the area is part of a comprehensive redevelopment strategy that is incorporated in the comprehensive plan;
2. the area is consistent with the definition of “urban infill” or “urban redevelopment;”
3. the area is not within an area of critical state concern;
4. the comprehensive plan delineates the most vulnerable areas within the coastal high hazard area to include areas of repetitive damage, lands located within the FEMA velocity zone and areas of coastal erosion;

In order to allow for redevelopment within the coastal high hazard area beyond what is allowed in the comprehensive plan, the local government would be required to adopt into the plan a redevelopment strategy and local hazard mitigation strategy that would include the following components:

1. measures to reduce, replace or eliminate unsafe structures and properties subject to repetitive damage;
2. measures to reduce exposure of infrastructure to hazards including relocation and structural modifications to coastal infrastructure;
3. operational and capacity improvements to maintain hurricane evacuation clearance times;
4. in counties where the hurricane evacuation clearance times exceed 16 hours for a Category 3 storm event, measures to ensure the redevelopment strategy reduces county shelter deficit and hurricane clearance times to adequate levels below 16 hours;
5. measures that provide for county evacuation shelter space to ensure that development authorized within the areas provides for mitigation is proportional to its impact to offset the increased demand on evacuation and public shelter space; and
6. measures to ensure that public expenditures which subsidize development in the most vulnerable areas of the coastal high hazard area are limited, except for that needed to provide for public access to the beach and shoreline, restore beaches and dunes and other natural systems, correct existing hurricane evacuation deficiencies or that needed to make facilities more disaster resistant;
7. measures which commit to planning and regulatory standards which exceed minimum National Flood Insurance Standards;
8. measures to ensure that the redevelopment strategy does not allow increases in development within the most vulnerable areas of the coastal high hazard area;
9. measures to ensure the protection of coastal resources, including beach and dune systems, and to provide for public access to the beach and shoreline consistent with the estimated public needs;
10. the redevelopment strategy shall establish the preferred character of the community
11. data and analysis, including the potential costs of the damage to structures, property and infrastructure;
12. data and analysis forecasting the impacts of the redevelopment on clearance times; and
13. the execution of an interlocal agreement between the local governments participating in the demonstration project.

The Department is given authority to adopt procedural rules governing the submission and review of the applications.

A local government that meets the required conditions must enter into a written agreement with the Department. The agreement must: (1) delineate the area that will be subject to the increase in development potential and state the amount of the increase; (2) delineate the most vulnerable areas not subject to increases in development; and (3) describe how all the required conditions are met.

The Department is to coordinate the review of hazard mitigation strategies with FEMA and the Division of Emergency Management and include in the agreement the conditions necessary to meet the requirements of hurricane evacuation, shelter and hazard mitigation.

Once the agreement is executed, the local government may propose such amendments to its comprehensive plan as are authorized by the agreement.

The Department is required to file a progress report on the demonstration project with the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2005.

The act would take effect upon becoming law.

#### C. SECTION DIRECTORY:

Section 1. This section provides for the name of the act – “The Coastal Redevelopment Hazard Mitigation Demonstration Project Act.”

Section 2. This section amends Section 163.3164 to provide a definition of “local hazard mitigation strategy.”

Section 3. This section amends Section 163.3177 (6) (g) to require that the coastal management element of a comprehensive plan address the implementation of hazard mitigation strategies.

Section 4. This section amends Section 163.3178(2)(d) to require that the coastal management element of a comprehensive plan address the protection of property, as well as human life, and local hazard mitigation strategies. The section also amends Section 163.3178(2)(f) and creates Section 163.3178(9) to provide for a demonstration project for local governments desiring to redevelop coastal high hazard areas.

Section 5. This section correct certain statutory cross-references.

Section 6. This section correct certain statutory cross-references.

Section 7. This section correct certain statutory cross-references.

Section 8. This section provides for an effective date.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

2. Expenditures:

The bill could have additional, indeterminate fiscal impacts on the Department of Community Affairs in carrying out its responsibilities related to the review of comprehensive plan amendments and to the administration of the demonstration project.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The redevelopment of properties in coastal areas could have a significant positive impact on local government property tax revenues as a result of increases in property values.

2. Expenditures:

The bill could have additional, indeterminate fiscal impacts on coastal local governments related to the requirements for amending their comprehensive plans to include the required provisions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The redevelopment of properties in coastal areas could have a significant positive economic impact on property owners and developers in those areas.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

By requiring coastal cities and counties to amend their comprehensive plans to include additional provisions within the coastal management element, this bill requires cities and counties to take action that requires expenditure of money. However, the aggregate cost for all affected cities and counties appears insignificant, exempting the bill from the requirements of Section 18, Article VII, Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill gives the Department authority to adopt rules for the administration of the demonstration project.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 2, 2003, the Natural Resources Committee favorably adopted a strike-all amendment that reordered and reorganized the language in the bill addressing the requirements for the demonstration project and added certain conditions to the demonstration project.