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1 A bill to be entitled

2 An act relating to military readiness; creating s.
3 163.3175, F.S.; providing legislative findings relating to
4 the compatibility of development with military
5 installations; amending s. 163.3164, F.S.; providing a
6 definition of military installations; amending s.
7 163.3177, F.S.; providing for consideration of the
8 compatibility with military installations in developing a
9 future land use element to a comprehensive plan; providing
10 for the state land planning agency to coordinate with the
11 Department of Defense on use compatibility issues relating
12 to military installations; creating s. 163.31779, F.S.;
13 requiring certain counties and municipalities to enter
14 into memoranda of agreement with military installations to
15 coordinate future land use changes, local government
16 comprehensive plans, land development regulations, and
17 development orders; requiring a schedule for completion of
18 such agreements; requiring local governments to seek
19 public advice on such agreements; identifying provisions
20 that must be included in such agreements at a minimum;
21 requiring such agreements to be consistent with adopted
22 comprehensive plans or amendments to such plans adopted
23 within one year after execution of the agreement;
24 providing for the provision of information regarding
25 community planning assistance grants; amending s.
26 163.3187, F.S.; exempting from certain restrictions on the
27 adoption of amendments to comprehensive plans an amendment
28 that addresses compatibility with military installations
29 based on a memorandum of agreement; amending s. 163.3191,
30 F.S.; requiring an evaluation of the success or failure of



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31 the military installation memorandum of agreement in
32 resolving land use compatibility; amending s. 163.3167,
33 F.S.; prohibiting certain judicial abrogation of quasi-
34 judicial development orders issued by local governments;
35 providing for retroactive application; providing for
36 construction of the act in pari materia with laws enacted
37 during the 2003 Regular Session of the Legislature;
38 providing effective dates.

39

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

41

42 Section 1. Section 163.3175, Florida Statutes, is created
43 to read:

44 163.3175 Legislative findings on compatibility of
45 development with military installations; exchange of information
46 between local governments and military installations.--

47 (1) The Legislature finds that incompatible development of
48 land close to military installations can adversely affect the
49 ability of such an installation to carry out its mission. The
50 Legislature further finds that such development also threatens
51 the public safety because of the possibility of accidents
52 occurring within the areas surrounding a military installation.
53 In addition, the economic health of a community is affected if
54 military operations and missions must relocate because of urban
55 encroachment. Therefore, the Legislature finds it desirable for
56 the local governments in the state to cooperate with military
57 installations to encourage compatible land use, help prevent
58 encroachment, and facilitate the continued presence of major
59 military installations in this state.

60 Section 2. Subsection (32) is added to section 163.3164,



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61 Florida Statutes, to read:

62 163.3164 Local Government Comprehensive Planning and Land
63 Development Regulation Act; definitions.--As used in this act:

64 (32) "Military installation" means a base, camp, post,
65 homeport facility for any ship, or other location under the
66 jurisdiction of the Department of Defense, including any leased
67 facility. Such term does not include any facility used
68 primarily for civil works, docking facilities, rivers and
69 harbors projects, or flood control projects.

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

73 163.3177 Required and optional elements of comprehensive
74 plan; studies and surveys.--

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

78 (a) A future land use plan element designating proposed
79 future general distribution, location, and extent of the uses of
80 land for residential uses, commercial uses, industry,
81 agriculture, recreation, conservation, education, public
82 buildings and grounds, other public facilities, and other
83 categories of the public and private uses of land. Each future
84 land use category must be defined in terms of uses included, and
85 must include standards to be followed in the control and
86 distribution of population densities and building and structure
87 intensities. The proposed distribution, location, and extent of
88 the various categories of land use shall be shown on a land use
89 map or map series which shall be supplemented by goals,
90 policies, and measurable objectives. The future land use plan



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91 shall be based upon surveys, studies, and data regarding the
92 area, including the amount of land required to accommodate
93 anticipated growth; the projected population of the area; the
94 character of undeveloped land; the availability of public
95 services; the need for redevelopment, including the renewal of
96 blighted areas and the elimination of nonconforming uses which
97 are inconsistent with the character of the community; the
98 compatibility with military installations; and, in rural
99 communities, the need for job creation, capital investment, and
100 economic development that will strengthen and diversify the
101 community's economy. The future land use plan may designate
102 areas for future planned development use involving combinations
103 of types of uses for which special regulations may be necessary
104 to ensure development in accord with the principles and
105 standards of the comprehensive plan and this act. In addition,
106 for rural communities, the amount of land designated for future
107 planned industrial use shall be based upon surveys and studies
108 that reflect the need for job creation, capital investment, and
109 the necessity to strengthen and diversify the local economies,
110 and shall not be limited solely by the projected population of
111 the rural community. The future land use plan of a county may
112 also designate areas for possible future municipal
113 incorporation. The land use maps or map series shall generally
114 identify and depict historic district boundaries and shall
115 designate historically significant properties meriting
116 protection. The future land use element must clearly identify
117 the land use categories in which public schools are an allowable
118 use. When delineating the land use categories in which public
119 schools are an allowable use, a local government shall include
120 in the categories sufficient land proximate to residential



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121 development to meet the projected needs for schools in
122 coordination with public school boards and may establish
123 differing criteria for schools of different type or size. Each
124 local government shall include lands contiguous to existing
125 school sites, to the maximum extent possible, within the land
126 use categories in which public schools are an allowable use. All
127 comprehensive plans must comply with the school siting
128 requirements of this paragraph no later than October 1, 1999.
129 The failure by a local government to comply with these school
130 siting requirements by October 1, 1999, will result in the
131 prohibition of the local government's ability to amend the local
132 comprehensive plan, except for plan amendments described in s.
133 163.3187(1)(b), until the school siting requirements are met.
134 Amendments proposed by a local government for purposes of
135 identifying the land use categories in which public schools are
136 an allowable use or for adopting or amending the school-siting
137 maps pursuant to s. 163.31776(3) are exempt from the limitation
138 on the frequency of plan amendments contained in s. 163.3187.
139 The future land use element shall include criteria that
140 encourage the location of schools proximate to urban residential
141 areas to the extent possible and shall require that the local
142 government seek to collocate public facilities, such as parks,
143 libraries, and community centers, with schools to the extent
144 possible and to encourage the use of elementary schools as focal
145 points for neighborhoods. For schools serving predominantly
146 rural counties, defined as a county with a population of 100,000
147 or fewer, an agricultural land use category shall be eligible
148 for the location of public school facilities if the local
149 comprehensive plan contains school siting criteria and the
150 location is consistent with such criteria.



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151 (10) The Legislature recognizes the importance and
152 significance of chapter 9J-5, Florida Administrative Code, the
153 Minimum Criteria for Review of Local Government Comprehensive
154 Plans and Determination of Compliance of the Department of
155 Community Affairs that will be used to determine compliance of
156 local comprehensive plans. The Legislature reserved unto itself
157 the right to review chapter 9J-5, Florida Administrative Code,
158 and to reject, modify, or take no action relative to this rule.
159 Therefore, pursuant to subsection (9), the Legislature hereby
160 has reviewed chapter 9J-5, Florida Administrative Code, and
161 expresses the following legislative intent:

162 (1) The state land planning agency shall consider land use
163 compatibility issues in the vicinity of all airports in
164 coordination with the Department of Transportation, and for
165 military installations in coordination with the Department of
166 Defense.

167 Section 4. Section 163.31779, Florida Statutes, is created
168 to read:

169 163.31779 Military installation memorandum of agreement.--

170 (1)(a) The county or counties in which a military
171 installation is either wholly or partially located and those
172 municipalities adjacent to or proximate to the military
173 installation, as determined by the state land planning agency
174 based on the recommendations of the governing bodies of the
175 affected counties and municipalities and the commanding officer
176 whose primary responsibility is the operation of the military
177 installation, shall enter into a memorandum of agreement with
178 the military installation to coordinate future land use changes
179 including the local government comprehensive plan, land
180 development regulations, and development orders.



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

186 (c) The military installation, the county or counties in
 187 which the military installation either wholly or partially is
 188 located, and the affected municipalities that are adjacent to or
 189 proximate to the military installation as determined by the
 190 state land planning agency are encouraged to adopt a single
 191 memorandum of agreement to which all join as parties. The state
 192 land planning agency shall assemble and make available model
 193 agreements meeting the requirements of this section and shall
 194 notify local governments and military installations of the
 195 requirements of this section. The state land planning agency
 196 shall be available to informally review proposed agreements.

197 (2) In preparing to adopt a memorandum of agreement, the
 198 local government must seek advice from residents of the local
 199 government and others who are likely to be affected by its
 200 provisions including, but not limited to, builders, developers,
 201 conservation groups, representatives of the United States Armed
 202 Services, and neighborhood groups.

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

204 (a) Coordinate planning activities between the local
 205 government and military installation to determine how the public
 206 health, safety, and welfare is likely to be affected by the
 207 proximity of development to the military installation, operating
 208 areas, and ranges.

209 (b) Coordinate planning activities between the local
 210 government and military installation to make reasonable



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211 provisions for preserving open space and compatible land uses
212 near the military installation.

213 (c) Coordinate planning activities between the local
214 government and military installation to evaluate land proximate
215 to the military installation taking into consideration the
216 findings of any Department of Defense Joint Land Use Study
217 Program, any Air Installation Compatible Use Zone (AICUZ), and
218 any Installation Environmental Noise Management Program (IENMP,
219 which was formerly the Installation Compatible Use Zone, or
220 ICUZ, program).

221 (d) Provide for a process by which the affected local
222 governments and the military installation coordinate and share
223 information relating to comprehensive plans and plan amendments,
224 land development regulations and changes thereto including
225 zoning changes, and development orders. The affected local
226 governments shall provide the military installation an
227 opportunity to review and comment on comprehensive plans, plan
228 amendments, land development regulations and changes thereto,
229 and development orders. The local government shall consider
230 those comments, if any, when adopting such plans or regulations
231 or when approving development orders. Comments on plan
232 amendments may be provided to the department for consideration
233 in its compliance review.

234 (e) Provide for the resolution of disputes between the
235 military installation and local governments, which may include
236 the dispute resolution processes contained in chapters 164 and
237 186.

238 (f) Provide for an oversight process, including an
239 opportunity for public participation, for the implementation of
240 the memorandum of agreement.



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241 (g) Provide for the identification of amendments to the
242 comprehensive plan needed to ensure compatibility with the
243 military installation and consistency with the interlocal
244 agreement.

245 (4) A memorandum of agreement entered into pursuant to
246 this section must be consistent with the adopted comprehensive
247 plan, or an amendment to such plan adopted within 1 year after
248 execution of the agreement, and land development regulations of
249 any local government that is a signatory.

250 (5) The commanding officer whose primary responsibility is
251 the operation of the military installation is encouraged to
252 provide information about any community planning assistance
253 grants that might be available to the local government through
254 the federal Office of Economic Adjustment as an incentive for
255 communities to participate in the Joint Land Use Study Program
256 to facilitate the compatibility of community planning and
257 activities vital to the national defense.

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

260 163.3187 Amendment of adopted comprehensive plan.--

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

264 (m) A comprehensive plan amendment that addresses
265 compatibility with military installations pursuant to the
266 military installation memorandum of agreement, does not count
267 toward the limitation on the frequency of plan amendments.

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

270 163.3191 Evaluation and appraisal of comprehensive plan.--



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271 (2) The report shall present an evaluation and assessment
272 of the comprehensive plan and shall contain appropriate
273 statements to update the comprehensive plan, including, but not
274 limited to, words, maps, illustrations, or other media, related
275 to:

276 (n) An evaluation of the success or failure of the
277 military installation memorandum of agreement in resolving land
278 use compatibility in the proximity of military installations.

279 Section 7. Subsection (13) is added to section 163.3167,
280 Florida Statutes, to read:

281 163.3167 Scope of act.--

282 (13)(a) If a local government grants a quasi-judicial
283 development order pursuant to its adopted land development
284 regulations and the order is not the subject of a pending
285 appeal, the right to commence and complete development pursuant
286 to the order may not be abrogated by a subsequent judicial
287 determination that such land development regulations or any
288 portion thereof are invalid because of a deficiency in the
289 approval standards.

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

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

296 Section 8. If any law amended by this act was also amended
297 by a law enacted at the 2003 Regular Session of the Legislature,
298 such laws shall be construed as if they had been enacted at the
299 same session of the Legislature, and full effect shall be given
300 to each if possible.



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301 Section 9. This act shall take effect July 1, 2003, except
302 that this section, section 4, and section 7 of this act shall
303 take effect upon becoming a law.