

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Rice offered the following:

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3 **Amendment (with title amendment)**

4 Between lines 4391 and 4392, insert:

5

6 Section 39. Section 163.3164, Florida Statutes, is amended
7 to read:

8 163.3164 Local Government Comprehensive Planning and Land
9 Development Regulation Act; definitions.--As used in this act:

10 (1) "Administration Commission" means the Governor and the
11 Cabinet, and for purposes of this chapter the commission shall
12 act on a simple majority vote, except that for purposes of
13 imposing the sanctions provided in s. 163.3184(11), affirmative
14 action shall require the approval of the Governor and at least
15 three other members of the commission.

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16 (2) "Area" or "area of jurisdiction" means the total area
17 qualifying under the provisions of this act, whether this be all
18 of the lands lying within the limits of an incorporated
19 municipality, lands in and adjacent to incorporated
20 municipalities, all unincorporated lands within a county, or
21 areas comprising combinations of the lands in incorporated
22 municipalities and unincorporated areas of counties.

23 (3) "Coastal area" means the 35 coastal counties and all
24 coastal municipalities within their boundaries designated
25 coastal by the state land planning agency.

26 (4) "Comprehensive plan" means a plan that meets the
27 requirements of ss. 163.3177 and 163.3178.

28 (5) "Developer" means any person, including a governmental
29 agency, undertaking any development as defined in this act.

30 (6) "Development" has the meaning given it in s. 380.04.

31 (7) "Development order" means any order granting, denying,
32 or granting with conditions an application for a development
33 permit.

34 (8) "Development permit" includes any building permit,
35 zoning permit, subdivision approval, rezoning, certification,
36 special exception, variance, or any other official action of
37 local government having the effect of permitting the development
38 of land.

39 (9) "Governing body" means the board of county
40 commissioners of a county, the commission or council of an
41 incorporated municipality, or any other chief governing body of
42 a unit of local government, however designated, or the

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43 combination of such bodies where joint utilization of the
44 provisions of this act is accomplished as provided herein.

45 (10) "Governmental agency" means:

46 (a) The United States or any department, commission,
47 agency, or other instrumentality thereof.

48 (b) This state or any department, commission, agency, or
49 other instrumentality thereof.

50 (c) Any local government, as defined in this section, or
51 any department, commission, agency, or other instrumentality
52 thereof.

53 (d) Any school board or other special district, authority,
54 or governmental entity.

55 (11) "Land" means the earth, water, and air, above, below,
56 or on the surface, and includes any improvements or structures
57 customarily regarded as land.

58 (12) "Land use" means the development that has occurred on
59 the land, the development that is proposed by a developer on the
60 land, or the use that is permitted or permissible on the land
61 under an adopted comprehensive plan or element or portion
62 thereof, land development regulations, or a land development
63 code, as the context may indicate.

64 (13) "Local government" means any county or municipality.

65 (14) "Local mitigation strategy" means a local plan
66 required under Section 322, Mitigation Planning, of the Robert
67 T. Stafford Disaster Relief and Emergency Assistance Act,
68 enacted by Section 104 of the Disaster Mitigation Act of 2000

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69 (Pub. L. No. 106-390) to promote hazard mitigation and to manage
70 disaster redevelopment.

71 (15)~~(14)~~ "Local planning agency" means the agency
72 designated to prepare the comprehensive plan or plan amendments
73 required by this act.

74 (16)~~(15)~~ A "newspaper of general circulation" means a
75 newspaper published at least on a weekly basis and printed in
76 the language most commonly spoken in the area within which it
77 circulates, but does not include a newspaper intended primarily
78 for members of a particular professional or occupational group,
79 a newspaper whose primary function is to carry legal notices, or
80 a newspaper that is given away primarily to distribute
81 advertising.

82 (17)~~(16)~~ "Parcel of land" means any quantity of land
83 capable of being described with such definiteness that its
84 locations and boundaries may be established, which is designated
85 by its owner or developer as land to be used, or developed as, a
86 unit or which has been used or developed as a unit.

87 (18)~~(17)~~ "Person" means an individual, corporation,
88 governmental agency, business trust, estate, trust, partnership,
89 association, two or more persons having a joint or common
90 interest, or any other legal entity.

91 (19)~~(18)~~ "Public notice" means notice as required by s.
92 125.66(2) for a county or by s. 166.041(3)(a) for a
93 municipality. The public notice procedures required in this part
94 are established as minimum public notice procedures.

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95 (20)~~(19)~~ "Regional planning agency" means the agency
96 designated by the state land planning agency to exercise
97 responsibilities under law in a particular region of the state.

98 (21)~~(20)~~ "State land planning agency" means the Department
99 of Community Affairs.

100 (22)~~(21)~~ "Structure" has the meaning given it by s.
101 380.031(19).

102 (23)~~(22)~~ "Land development regulation commission" means a
103 commission designated by a local government to develop and
104 recommend, to the local governing body, land development
105 regulations which implement the adopted comprehensive plan and
106 to review land development regulations, or amendments thereto,
107 for consistency with the adopted plan and report to the
108 governing body regarding its findings. The responsibilities of
109 the land development regulation commission may be performed by
110 the local planning agency.

111 (24)~~(23)~~ "Land development regulations" means ordinances
112 enacted by governing bodies for the regulation of any aspect of
113 development and includes any local government zoning, rezoning,
114 subdivision, building construction, or sign regulations or any
115 other regulations controlling the development of land, except
116 that this definition shall not apply in s. 163.3213.

117 (25)~~(24)~~ "Public facilities" means major capital
118 improvements, including, but not limited to, transportation,
119 sanitary sewer, solid waste, drainage, potable water,
120 educational, parks and recreational, and health systems and
121 facilities, and spoil disposal sites for maintenance dredging

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122 located in the intracoastal waterways, except for spoil disposal
123 sites owned or used by ports listed in s. 403.021(9)(b).

124 ~~(26)~~~~(25)~~ "Downtown revitalization" means the physical and
125 economic renewal of a central business district of a community
126 as designated by local government, and includes both downtown
127 development and redevelopment.

128 ~~(27)~~~~(26)~~ "Urban redevelopment" means demolition and
129 reconstruction or substantial renovation of existing buildings
130 or infrastructure within urban infill areas or existing urban
131 service areas.

132 ~~(28)~~~~(27)~~ "Urban infill" means the development of vacant
133 parcels in otherwise built-up areas where public facilities such
134 as sewer systems, roads, schools, and recreation areas are
135 already in place and the average residential density is at least
136 five dwelling units per acre, the average nonresidential
137 intensity is at least a floor area ratio of 1.0 and vacant,
138 developable land does not constitute more than 10 percent of the
139 area.

140 ~~(29)~~~~(28)~~ "Projects that promote public transportation"
141 means projects that directly affect the provisions of public
142 transit, including transit terminals, transit lines and routes,
143 separate lanes for the exclusive use of public transit services,
144 transit stops (shelters and stations), office buildings or
145 projects that include fixed-rail or transit terminals as part of
146 the building, and projects which are transit oriented and
147 designed to complement reasonably proximate planned or existing
148 public facilities.

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149 ~~(30)~~(29) "Existing urban service area" means built-up
150 areas where public facilities and services such as sewage
151 treatment systems, roads, schools, and recreation areas are
152 already in place.

153 ~~(31)~~(30) "Transportation corridor management" means the
154 coordination of the planning of designated future transportation
155 corridors with land use planning within and adjacent to the
156 corridor to promote orderly growth, to meet the concurrency
157 requirements of this chapter, and to maintain the integrity of
158 the corridor for transportation purposes.

159 ~~(32)~~(31) "Optional sector plan" means an optional process
160 authorized by s. 163.3245 in which one or more local governments
161 by agreement with the state land planning agency are allowed to
162 address development-of-regional-impact issues within certain
163 designated geographic areas identified in the local
164 comprehensive plan as a means of fostering innovative planning
165 and development strategies in s. 163.3177(11)(a) and (b),
166 furthering the purposes of this part and part I of chapter 380,
167 reducing overlapping data and analysis requirements, protecting
168 regionally significant resources and facilities, and addressing
169 extrajurisdictional impacts.

170 Section 40. Paragraphs (a) and (g) of subsection (6) of
171 section 163.3177, Florida Statutes, are amended to read:

172 163.3177 Required and optional elements of comprehensive
173 plan; studies and surveys.--

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

177 (a) A future land use plan element designating proposed
178 future general distribution, location, and extent of the uses of
179 land for residential uses, commercial uses, industry,
180 agriculture, recreation, conservation, education, public
181 buildings and grounds, other public facilities, and other
182 categories of the public and private uses of land. Counties are
183 encouraged to designate rural land stewardship areas, pursuant
184 to the provisions of paragraph (11)(d), as overlays on the
185 future land use map. Each future land use category must be
186 defined in terms of uses included, and must include standards to
187 be followed in the control and distribution of population
188 densities and building and structure intensities. The proposed
189 distribution, location, and extent of the various categories of
190 land use shall be shown on a land use map or map series which
191 shall be supplemented by goals, policies, and measurable
192 objectives. The future land use plan shall be based upon
193 surveys, studies, and data regarding the area, including the
194 amount of land required to accommodate anticipated growth; the
195 projected population of the area; the character of undeveloped
196 land; the availability of water supplies, public facilities, and
197 services; the vulnerability to natural hazards and the potential
198 need for hazard mitigation; the need for redevelopment,
199 including the renewal of blighted areas and the elimination of
200 nonconforming uses which are inconsistent with the character of

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201 the community; the compatibility of uses on lands adjacent to or
202 closely proximate to military installations; and, in rural
203 communities, the need for job creation, capital investment, and
204 economic development that will strengthen and diversify the
205 community's economy. The future land use plan may designate
206 areas for future planned development use involving combinations
207 of types of uses for which special regulations may be necessary
208 to ensure development in accord with the principles and
209 standards of the comprehensive plan and this act. The future
210 land use plan element shall include criteria to be used to
211 achieve the compatibility of adjacent or closely proximate lands
212 with military installations. In addition, for rural communities,
213 the amount of land designated for future planned industrial use
214 shall be based upon surveys and studies that reflect the need
215 for job creation, capital investment, and the necessity to
216 strengthen and diversify the local economies, and shall not be
217 limited solely by the projected population of the rural
218 community. The future land use plan of a county may also
219 designate areas for possible future municipal incorporation. The
220 land use maps or map series shall generally identify and depict
221 historic district boundaries and shall designate historically
222 significant properties meriting protection. The future land use
223 element must clearly identify the land use categories in which
224 public schools are an allowable use. When delineating the land
225 use categories in which public schools are an allowable use, a
226 local government shall include in the categories sufficient land
227 proximate to residential development to meet the projected needs

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228 for schools in coordination with public school boards and may
229 establish differing criteria for schools of different type or
230 size. Each local government shall include lands contiguous to
231 existing school sites, to the maximum extent possible, within
232 the land use categories in which public schools are an allowable
233 use. ~~All comprehensive plans must comply with the school siting~~
234 ~~requirements of this paragraph no later than October 1, 1999.~~
235 ~~The failure by a local government to comply with these school~~
236 ~~siting requirements by October 1, 1999, will result in the~~
237 ~~prohibition of the local government's ability to amend the local~~
238 ~~comprehensive plan, except for plan amendments described in s.~~
239 ~~163.3187(1)(b), until the school siting requirements are met.~~
240 Amendments proposed by a local government for purposes of
241 identifying the land use categories in which public schools are
242 an allowable use ~~or for adopting or amending the school siting~~
243 ~~maps pursuant to s. 163.31776(3)~~ are exempt from the limitation
244 on the frequency of plan amendments contained in s. 163.3187.
245 The future land use element shall include criteria that
246 encourage the location of schools proximate to urban residential
247 areas to the extent possible and shall require that the local
248 government seek to collocate public facilities, such as parks,
249 libraries, and community centers, with schools to the extent
250 possible and to encourage the use of elementary schools as focal
251 points for neighborhoods. For schools serving predominantly
252 rural counties, defined as a county with a population of 100,000
253 or fewer, an agricultural land use category shall be eligible
254 for the location of public school facilities if the local

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255 comprehensive plan contains school siting criteria and the
256 location is consistent with such criteria. Local governments
257 required to update or amend their comprehensive plan to include
258 criteria and address compatibility of adjacent or closely
259 proximate lands with existing military installations in their
260 future land use plan element shall transmit the update or
261 amendment to the department by June 30, 2006.

262 (g) For those units of local government identified in s.
263 380.24, a coastal management element, appropriately related to
264 the particular requirements of paragraphs (d) and (e) and
265 meeting the requirements of s. 163.3178(2) and (3). The coastal
266 management element shall set forth the policies that shall guide
267 the local government's decisions and program implementation with
268 respect to the following objectives:

269 1. Maintenance, restoration, and enhancement of the
270 overall quality of the coastal zone environment, including, but
271 not limited to, its amenities and aesthetic values.

272 2. Continued existence of viable populations of all
273 species of wildlife and marine life.

274 3. The orderly and balanced utilization and preservation,
275 consistent with sound conservation principles, of all living and
276 nonliving coastal zone resources.

277 4. Avoidance of irreversible and irretrievable loss of
278 coastal zone resources.

279 5. Ecological planning principles and assumptions to be
280 used in the determination of suitability and extent of permitted
281 development.

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282 6. Proposed management and regulatory techniques.

283 7. Limitation of public expenditures that subsidize
284 development in high-hazard coastal areas.

285 8. Protection of human life against the effects of natural
286 disasters and implementation of hazard-mitigation strategies.

287 9. The orderly development, maintenance, and use of ports
288 identified in s. 403.021(9) to facilitate deepwater commercial
289 navigation and other related activities.

290 10. Preservation, including sensitive adaptive use of
291 historic and archaeological resources.

292 Section 41. Paragraphs (d) and (f) of subsection (2) of
293 section 163.3178, Florida Statutes, are amended, and subsection
294 (9) is added to that section, to read:

295 163.3178 Coastal management.--

296 (2) Each coastal management element required by s.
297 163.3177(6)(g) shall be based on studies, surveys, and data; be
298 consistent with coastal resource plans prepared and adopted
299 pursuant to general or special law; and contain:

300 (d) A component that ~~which~~ outlines principles for hazard
301 mitigation and protection of human life and property against the
302 effects of natural disaster, including population evacuation and
303 local mitigation strategies that, ~~which~~ take into consideration
304 the capability to safely evacuate the density of coastal
305 population proposed in the future land use plan element in the
306 event of an impending natural disaster.

307 (f) A redevelopment component that ~~which~~ outlines the
308 principles to ~~which shall~~ be used to eliminate inappropriate and

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309 unsafe development in the coastal areas when opportunities
310 arise. In recognition of the need to balance redevelopment, the
311 protection of human life and property, and public investment in
312 infrastructure, as a demonstration project, up to five local
313 governments or a combination of local governments may amend
314 their comprehensive plans to allow for the redevelopment of
315 coastal areas within the designated coastal high-hazard area.
316 The application must include the participation of the county
317 emergency management agency, as provided in s. 252.38, of the
318 county or counties in which the local government or local
319 governments are located.

320 1. To be eligible for the coastal redevelopment
321 demonstration project, the following conditions must be met: the
322 comprehensive plan delineates the Flood Insurance Rate Map
323 zones, the Coastal Construction Control Line, and the Coastal
324 Barrier Resources System Area (COBRA) units for the area subject
325 to the coastal redevelopment strategy; the area is part of a
326 comprehensive redevelopment strategy that will be incorporated
327 into the comprehensive plan; the area has been designated in the
328 comprehensive plan as an urban infill and redevelopment area
329 under s. 163.2517 or an adopted community redevelopment plan
330 under s. 163.360 which is incorporated as a component of the
331 comprehensive plan; the area is not within a designated area of
332 critical state concern; the comprehensive plan delineates the
333 coastal high-hazard area consistent with this part; and the
334 county emergency management agency affirms in writing its intent
335 to participate in the demonstration project.

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336 2. The local government or combination of local
337 governments, authorized by agreement pursuant to paragraph
338 (9)(b) to pursue the demonstration project, shall adopt into the
339 comprehensive plan a redevelopment strategy, consistent with the
340 requirements of s. 163.3177(6)(a) and local mitigation
341 strategies, which includes, at a minimum, the following
342 components:

343 a. Measures to reduce, replace, or eliminate unsafe
344 structures and properties subject to repetitive damage from
345 coastal storms and floods;

346 b. Measures to reduce exposure of infrastructure to
347 hazards, including relocation and structural modification of
348 threatened coastal infrastructure;

349 c. Operational and capacity improvements to ensure that
350 the redevelopment strategy maintains or reduces throughout the
351 planning timeframe the county hurricane evacuation clearance
352 times as established in the most recent hurricane evacuation
353 study or transportation analysis;

354 d. If the county hurricane evacuation clearance times
355 exceed 16 hours for a Category 3 storm event, measures to ensure
356 that the redevelopment strategy reduces the county shelter
357 deficit and hurricane clearance times to adequate levels below
358 16 hours within the planning timeframe;

359 e. Measures that provide for county evacuation shelter
360 space to ensure that development authorized within the
361 redevelopment area provides mitigation proportional to its

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362 impact to offset the increased demand on evacuation clearance
363 times and public shelter space;

364 f. Measures to ensure that public expenditures that
365 subsidize development in the most vulnerable areas of the
366 coastal high hazard area are limited to those expenditures
367 needed to provide for public access to the beach and shoreline,
368 restore beaches and dunes and other natural systems, correct
369 existing hurricane evacuation deficiencies, or to make
370 facilities more disaster resistant;

371 g. Measures that commit to planning and regulatory
372 standards that exceed minimum National Flood Insurance
373 Standards, including participation in the Community Rating
374 System of the National Flood Insurance Program;

375 h. Measures to ensure protection of coastal resources,
376 including beach and dune systems, and provision for public
377 access to the beach and shoreline consistent with estimated
378 public needs;

379 i. Data and analysis, including existing damage potential
380 and the proportionate potential costs of damage to structures,
381 property, and infrastructure under the redevelopment strategy,
382 which would need to be less than that proportionately expected
383 without the redevelopment strategy;

384 j. Data and analysis forecasting the effects on shelter
385 capacity and hurricane evacuation clearance times, based on the
386 population anticipated by the redevelopment strategy; and

387 k. The execution of an interlocal agreement, as supporting
388 data and analysis, between the local government or a combination

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389 of local governments participating in the demonstration project,
390 together with their respective county emergency management
391 agency and any affected municipalities, as needed, to implement
392 mitigation strategies to reduce hurricane evacuation clearance
393 times and deficits in public shelters.

394

395 The redevelopment strategy must establish the preferred
396 character of the community and how that will be achieved.

397 (9)(a) A local government seeking to implement the coastal
398 redevelopment demonstration project pursuant to paragraph (2)(f)
399 must submit an application to the state land planning agency
400 demonstrating that the project meets the conditions of
401 subparagraph (2)(f)1. The application must include copies of the
402 local government comprehensive plan and other relevant
403 information supporting the proposed demonstration project. The
404 state land planning agency may adopt procedural rules governing
405 the submission, review, and selection of applications and may
406 establish a phased schedule for reviewing applications. The
407 department shall begin accepting applications no later than July
408 1, 2006. The state land planning agency shall provide the
409 Federal Emergency Management Agency and the Division of
410 Emergency Management with an opportunity to comment on the
411 application.

412 (b) If a selected local government meets the conditions of
413 subparagraph (2)(f)1., the state land planning agency and the
414 local government shall execute a written agreement that is a
415 final agency action subject to challenge under s. 120.569. The

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416 written agreement must identify the area subject to the increase
417 in development potential, including residential and transient
418 residential development; state the amount of such increase;
419 identify the most vulnerable areas not subject to increases in
420 development; and describe how the conditions of subparagraph
421 (2)(f)2. are to be met. The state land planning agency shall
422 coordinate the review of hazard mitigation strategies with the
423 Federal Emergency Management Agency and the Division of
424 Emergency Management and include in the written agreement
425 conditions necessary to be addressed in the comprehensive plan
426 to meet the requirements of hurricane evacuation, shelter, and
427 hazard mitigation. The agreement must specify procedures for
428 public participation and intergovernmental coordination with the
429 county emergency management agency and any affected
430 municipalities regarding hurricane evacuation and shelter
431 requirements. The local governments shall provide an opportunity
432 for public comment at a public hearing before execution of the
433 agreement. Upon execution of the written agreement, the local
434 government may propose plan amendments that are authorized by
435 the agreement; however, such plan amendments may not be adopted
436 until the completion of any challenges to an agreement under s.
437 120.569.

438 (c) The state land planning agency shall provide a
439 progress report on the demonstration project to the Governor,
440 the President of the Senate, and the Speaker of the House of
441 Representatives by February 1, 2007. In its report, the state
442 land planning agency shall assess whether the program has

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443 successfully implemented mitigation strategies and whether the
444 program should continue or be expanded to include additional
445 communities.

446 Section 42. Section 186.515, Florida Statutes, is amended
447 to read:

448 186.515 Creation of regional planning councils under
449 chapter 163.--Nothing in ss. 186.501-186.507, 186.513, and this
450 section 186.515 is intended to repeal or limit the provisions of
451 chapter 163; however, the local general-purpose governments
452 serving as voting members of the governing body of a regional
453 planning council created pursuant to ss. 186.501-186.507,
454 186.513, and this section 186.515 are not authorized to create a
455 regional planning council pursuant to chapter 163 unless an
456 agency, other than a regional planning council created pursuant
457 to ss. 186.501-186.507, 186.513, and this section 186.515, is
458 designated to exercise the powers and duties in any one or more
459 of ss. 163.3164(20) ~~163.3164(19)~~ and 380.031(15); in which case,
460 such a regional planning council is also without authority to
461 exercise the powers and duties in s. 163.3164(20) ~~s.~~
462 ~~163.3164(19)~~ or s. 380.031(15).

463 Section 43. Paragraph (a) of subsection (2) of section
464 288.975, Florida Statutes, is amended to read:

465 288.975 Military base reuse plans.--

466 (2) As used in this section, the term:

467 (a) "Affected local government" means a local government
468 adjoining the host local government and any other unit of local
469 government that is not a host local government but that is

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470 identified in a proposed military base reuse plan as providing,
471 operating, or maintaining one or more public facilities as
472 defined in s. 163.3164(25) ~~s. 163.3164(24)~~ on lands within or
473 serving a military base designated for closure by the Federal
474 Government.

475 Section 44. Subsection (5) of section 369.303, Florida
476 Statutes, is amended to read:

477 369.303 Definitions.--As used in this part:

478 (5) "Land development regulation" means a regulation
479 covered by the definition in s. 163.3164(24) ~~s. 163.3164(23)~~ and
480 any of the types of regulations described in s. 163.3202.

481

482

483 ===== T I T L E A M E N D M E N T =====

484 Remove line 267 and insert:

485

486 certain staffing purposes; amending s. 163.3164, F.S. ;
487 defining the term "local mitigation strategy" for purposes
488 of the Local Government Comprehensive Planning and Land
489 Development Regulation Act; amending s. 163.3177, F.S. ;
490 providing an additional requirement for a local
491 government's comprehensive plan concerning hazard
492 mitigation; deleting obsolete provisions; amending s.
493 163.3178, F.S. ; revising provisions with respect to
494 coastal management; authorizing a demonstration project in
495 certain counties to allow for the redevelopment of coastal
496 areas within the designated coastal high hazard area;

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497 providing conditions; providing for application by a local
498 government; providing for a written agreement between the
499 state land planning agency and the local government;
500 providing for a progress report to the Governor and the
501 Legislature; amending ss. 186.515, 288.975, and 369.303,
502 F.S.; correcting cross references to conform; providing an
503 effective date.

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