

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 1066

INTRODUCER: Community Affairs Committee and Senator Miller

SUBJECT: Public Notice and Hearing Regarding Commercial Development

DATE: April 4, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.	_____	_____	EP	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute (CS) requires additional public notice for businesses locating near a residential area that may pose a significant health risk to those residents. An applicant for a development order to locate a business that may pose significant health risks shall post a sign of a certain size in a conspicuous place on the proposed development site within a specified time frame. If the local government reasonably expects the proposed development may result in heightened public concern or an appeal of the development order, the applicant shall comply with additional notice provisions. These additional provisions include providing written notice to adjoining property owners and all neighborhood associations or homeowners' associations within one contiguous mile of the proposed development site. If a member of the public requests a workshop before the issuance of the development order, the applicant for the development order must pay the cost of publication of the notice of the workshop.

This CS creates section 288.1075 of the Florida Statutes.

II. Present Situation:

Changes in Land Use – The proposed use of real property for commercial, manufacturing, or industrial business may require a public hearing. If the proposed land use does require the governing body of the local government to take action to approve the land use, there are applicable notice and hearing requirements. Those requirements may vary depending on whether the proposed land use is the subject of a plan amendment, or is a nonconforming use under the applicable zoning code, or otherwise requires a public hearing under the local zoning code.

Section 125.66(4), F.S., governs the procedure for counties enacting ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category,

or ordinances initiated by the county that change the actual zoning map designation of a parcel or parcels of land. There are two procedures that differ based on the amount of land at issue:

- If the proposed ordinance or resolution changes the actual zoning map designation for a parcel of land involving less than 10 continuous acres, public notice must include newspaper notice at least 10 days prior to the meeting and notification by mail of each real property owner whose land the governmental agency will redesignate by enactment of the ordinance. The notice must be given at least 30 days prior to the public hearing. The board of commissioners must hold a public hearing on the proposed ordinance and upon completion of the hearing, may immediately adopt the ordinance or resolution.
- If the proposed ordinance or resolution changes the list of permitted, conditional, or prohibited uses within a zoning category, or changes the zoning map designation of a parcel of land involving 10 contiguous acres or more, the board of county commissioners must hold two advertised public hearings on the proposed ordinance or resolution. The first public hearing must be held at least 7 days after the day that the first advertisement is published, and the second hearing must be held at least 10 days after the first hearing and must be advertised at least 5 days before the hearing. In addition, the size and content of the advertisement is prescribed.

The hearing and notice requirements in s. 166.041(3), F.S., for municipalities, parallel the requirements described above for counties.

Hazardous or Toxic Substances – The Emergency Planning Community Right to Know Act (act) assists local communities in their efforts to protect the public health, safety, and the environment from chemical hazards. The act also provides for local emergency planning committees that establish procedures for receiving and processing requests from the public for information.¹ However, the provisions of EPCRA do not address the proposed use of land for a business that may use or emit hazardous or toxic substances.

III. Effect of Proposed Changes:

Section 1 creates s. 288.1075, F.S., to require additional public notice for businesses locating near a residential area that may pose a significant health risk to those residents. It defines the term “development order.” An applicant for a development order to locate a business that may pose significant health risks shall post a sign of a certain size in a conspicuous place on the proposed development site no later than 30 calendar days after submittal of the application to the local government. The posted sign must include the location of the proposed development, the type of development order requested, and instructions for members of the public who wish to obtain more information from the local government regarding the proposed development. The sign must be legible from the nearest road.

If the local government reasonably expects the proposed development may result in heightened public concern or an appeal of the development order as the result of the development’s size, potential health risks, controversial nature, or location, the applicant shall comply with additional notice provisions. Specifically, the applicant shall provide written notice to adjoining property

¹ See 42 U.S.C. 11001.

owners and all neighborhood associations or homeowners' associations within one contiguous mile of the proposed development site. This written notice must include a description of the proposed development order and instructions for members of the public who wish to obtain more information from the local government regarding the proposed development. Also, the applicant must post a sign no later than 20 calendar days after the local government notifies the applicant that the potential exists for heightened public concern or an appeal of the development order. The sign must remain on the proposed development site for no less than 30 calendar days after issuance of the development order.

If member of the public requests a workshop before issuance of the development order, the local government may conduct a workshop. This workshop must be held not less than 10 calendar days before the issuance of the order. The applicant, at his or her expense, must provide for publication of the notice in a newspaper of general circulation not less than 14 calendar days before the workshop. The notice must include information on how an adversely affected party may file an appeal or request a hearing before the local government.

Section 2 provides the act shall take effect July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This CS may result in increased costs for siting commercial, industrial, or manufacturing facilities because of the required signage and publication of notice under this CS.

C. Government Sector Impact:

This CS may result in local governments holding additional workshops or public hearings regarding the potential health risks associated with a proposed commercial, industrial, or manufacturing business. However, the applicant must pay to publish notice of the public workshop provided for in this CS.

VI. Technical Deficiencies:

On page 3, lines 4-13, the CS requires the posting of a sign but does not specify what information must be displayed on the sign.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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