

By Senator Dean

3-03729-08

20082634__

1 A bill to be entitled
2 An act relating to agricultural industrial centers;
3 amending s. 163.3164, F.S.; defining the term
4 "agricultural industrial center"; amending s.
5 163.3177, F.S.; requiring that local governments, in
6 conjunction with certain state agencies, identify
7 existing agricultural industrial centers before a
8 specified deadline; requiring that local governments
9 amend the future land use element of their local
10 comprehensive plans for a certain purpose before a
11 specified deadline; providing that such amendment is
12 exempt from the twice-a-year limitation imposed by
13 state law; requiring that such planning districts meet
14 specified criteria; authorizing landowners within an
15 agricultural industrial center economic overlay
16 planning district to apply for an amendment to the
17 local government comprehensive plan for certain
18 purposes; limiting the effects of such proposed
19 amendments; providing an exception to certain
20 limitations; providing that such amendments are
21 presumed consistent with the Florida Administrative
22 Code, and may include land uses and intensities of use
23 consistent and compatible with the uses and
24 intensities of use of the corresponding agricultural
25 industrial center; providing that such assumption may
26 be rebutted by clear and convincing evidence;
27 requiring that a local government and the owner of a
28 parcel of land subject to such application negotiate
29 in good faith to reach consensus on the proposed

3-03729-08

20082634__

30 expansion and the land uses and intensities of use
31 within a specified period; requiring that a local
32 government and owner agree in writing to a schedule
33 for information submittal, public hearings,
34 negotiations, and final action on the amendment within
35 a specified period; providing that such schedule may
36 be altered only with the written consent of the local
37 government and the owner; providing that compliance
38 with such schedule constitutes good-faith
39 negotiations; requiring that the amendment be
40 transmitted to the state land planning agency for
41 review upon conclusion of good-faith negotiations,
42 regardless of the result of such negotiations;
43 providing that such submitted amendments are presumed
44 consistent with the Florida Administrative Code;
45 providing that such presumption may be rebutted by
46 clear and convincing evidence; providing that a plan
47 amendment is not entitled to such rebuttable
48 presumption under certain circumstances; providing an
49 effective date.

50
51 WHEREAS, the Legislature recognizes and finds that there are
52 a number of facilities throughout the state which process,
53 produce, or aid in the production or distribution of a variety of
54 agriculturally based products, such as fruits, vegetables,
55 timber, and other crops, as well as juices, paper, and building
56 materials. These agricultural industrial facilities often are
57 grouped in agricultural industrial centers, which have a
58 significant amount of developed infrastructure that is used for

3-03729-08

20082634__

59 | the processing, production, or distribution of agricultural
60 | products, and

61 | WHEREAS, the Legislature further recognizes and finds that
62 | such agricultural industrial centers often are located within or
63 | near communities in which the economy is largely dependent upon
64 | agriculture and agriculturally based products. These agricultural
65 | industrial centers significantly enhance the economy of such
66 | communities. However, such agriculturally based communities are
67 | often socioeconomically challenged and many such communities have
68 | been designated as rural areas of critical economic concern, and

69 | WHEREAS, the Legislature recognizes and finds that if these
70 | agricultural industrial centers are lost and not replaced with
71 | other job-creating enterprises, these communities will lose a
72 | substantial amount of their economies. The economies and
73 | employment bases of such communities should be diversified in
74 | order to protect against changes in national and international
75 | agricultural markets, land use patterns, weather, pests or
76 | diseases, or other events that could result in existing
77 | agricultural industrial facilities being permanently closed or
78 | temporarily shut down, ultimately resulting in an economic crisis
79 | for these communities, and

80 | WHEREAS, it is a compelling state interest to preserve the
81 | viability of agriculture in Florida and to protect such
82 | communities and the state from the economic upheaval that could
83 | result from short-term or long-term adverse changes in the
84 | agricultural economy. An essential part of protecting such
85 | communities while protecting viable agriculture for the long term
86 | is to encourage diversification of the employment base within
87 | agricultural industrial centers for the purpose of providing jobs

3-03729-08

20082634__

88 that are not solely dependent upon agricultural operations, and
89 to encourage the creation and expansion of industries that use
90 agricultural products in innovative or new ways, NOW, THEREFORE,
91

92 Be It Enacted by the Legislature of the State of Florida:
93

94 Section 1. Subsection (34) is added to section 163.3164,
95 Florida Statutes, to read:

96 163.3164 Local Government Comprehensive Planning and Land
97 Development Regulation Act; definitions.--As used in this act:

98 (34) "Agricultural industrial center" means a parcel or
99 parcels of land:

100 (a) On which there exists an operating facility or
101 facilities used for processing, producing, and preparing for
102 transport a farm product as defined in s. 163.3162 or any biomass
103 material that could be used, directly or indirectly, for the
104 production of fuel, renewable energy, bioenergy, or alternative
105 fuel as defined by state law;

106 (b) Including all contiguous lands at the site which are
107 not used for cultivation of crops, but still associated with the
108 operation of such a facility or facilities; and

109 (c) Located within rural areas of critical economic concern
110 or located in a county any portion of which has been designated
111 as an area of critical economic concern.

112 Section 2. Paragraph (a) of subsection (6) of section
113 163.3177, Florida Statutes, is amended to read:

114 163.3177 Required and optional elements of comprehensive
115 plan; studies and surveys.--

3-03729-08

20082634__

116 (6) In addition to the requirements of subsections (1)-(5)
117 and (12), the comprehensive plan shall include the following
118 elements:

119 (a)1. A future land use plan element designating proposed
120 future general distribution, location, and extent of the uses of
121 land for residential uses, commercial uses, industry,
122 agriculture, recreation, conservation, education, public
123 buildings and grounds, other public facilities, and other
124 categories of the public and private uses of land. Counties are
125 encouraged to designate rural land stewardship areas, pursuant to
126 the provisions of paragraph (11)(d), as overlays on the future
127 land use map. Each future land use category must be defined in
128 terms of uses included, and must include standards to be followed
129 in the control and distribution of population densities and
130 building and structure intensities. The proposed distribution,
131 location, and extent of the various categories of land use shall
132 be shown on a land use map or map series which shall be
133 supplemented by goals, policies, and measurable objectives. The
134 future land use plan shall be based upon surveys, studies, and
135 data regarding the area, including the amount of land required to
136 accommodate anticipated growth; the projected population of the
137 area; the character of undeveloped land; the availability of
138 water supplies, public facilities, and services; the need for
139 redevelopment, including the renewal of blighted areas and the
140 elimination of nonconforming uses which are inconsistent with the
141 character of the community; the compatibility of uses on lands
142 adjacent to or closely proximate to military installations; and,
143 in rural communities, the need for job creation, capital
144 investment, and economic development that will strengthen and

3-03729-08

20082634__

145 diversify the community's economy. The future land use plan may
146 designate areas for future planned development use involving
147 combinations of types of uses for which special regulations may
148 be necessary to ensure development in accord with the principles
149 and standards of the comprehensive plan and this act. The future
150 land use plan element shall include criteria to be used to
151 achieve the compatibility of adjacent or closely proximate lands
152 with military installations. In addition, for rural communities,
153 the amount of land designated for future planned industrial use
154 shall be based upon surveys and studies that reflect the need for
155 job creation, capital investment, and the necessity to strengthen
156 and diversify the local economies, and shall not be limited
157 solely by the projected population of the rural community. The
158 future land use plan of a county may also designate areas for
159 possible future municipal incorporation. The land use maps or map
160 series shall generally identify and depict historic district
161 boundaries and shall designate historically significant
162 properties meriting protection. For coastal counties, the future
163 land use element must include, without limitation, regulatory
164 incentives and criteria that encourage the preservation of
165 recreational and commercial working waterfronts as defined in s.
166 342.07. The future land use element must clearly identify the
167 land use categories in which public schools are an allowable use.
168 When delineating the land use categories in which public schools
169 are an allowable use, a local government shall include in the
170 categories sufficient land proximate to residential development
171 to meet the projected needs for schools in coordination with
172 public school boards and may establish differing criteria for
173 schools of different type or size. Each local government shall

3-03729-08

20082634__

174 include lands contiguous to existing school sites, to the maximum
175 extent possible, within the land use categories in which public
176 schools are an allowable use. The failure by a local government
177 to comply with these school siting requirements will result in
178 the prohibition of the local government's ability to amend the
179 local comprehensive plan, except for plan amendments described in
180 s. 163.3187(1)(b), until the school siting requirements are met.
181 Amendments proposed by a local government for purposes of
182 identifying the land use categories in which public schools are
183 an allowable use are exempt from the limitation on the frequency
184 of plan amendments contained in s. 163.3187. The future land use
185 element shall include criteria that encourage the location of
186 schools proximate to urban residential areas to the extent
187 possible and shall require that the local government seek to
188 collocate public facilities, such as parks, libraries, and
189 community centers, with schools to the extent possible and to
190 encourage the use of elementary schools as focal points for
191 neighborhoods. For schools serving predominantly rural counties,
192 defined as a county with a population of 100,000 or fewer, an
193 agricultural land use category shall be eligible for the location
194 of public school facilities if the local comprehensive plan
195 contains school siting criteria and the location is consistent
196 with such criteria. Local governments required to update or amend
197 their comprehensive plan to include criteria and address
198 compatibility of adjacent or closely proximate lands with
199 existing military installations in their future land use plan
200 element shall transmit the update or amendment to the department
201 by June 30, 2006.

3-03729-08

20082634__

202 2.a. Local governments shall, in consultation with the
203 Department of Agriculture and Consumer Services, the Department
204 of Community Affairs, the Office of Tourism, Trade, and Economic
205 Development, the appropriate regional planning council, property
206 owners, and interested parties, identify existing agricultural
207 industrial centers as defined by s. 163.3164(34) within their
208 jurisdiction on or before July 1, 2009.

209 b. Local governments shall amend the future land use
210 element of their local comprehensive plans on or before July 1,
211 2010, for the purpose of establishing agricultural industrial
212 center economic overlay planning districts. Such amendment is
213 exempt from the twice-a-year limitation of s. 163.3187(1). Such
214 planning districts shall:

215 (I) Incorporate existing agricultural industrial centers;
216 (II) Be developed in consultation with affected landowners;
217 (III) Encourage the expansion of industrial uses or
218 facilities;
219 (IV) Take into account the need to reduce the economic
220 vulnerability of communities that are largely reliant on
221 agriculture for income or employment; and

222 (V) Be designed and implemented so that a district does not
223 interpret its local comprehensive plans so as to permanently
224 restrict the conversion of agricultural lands within the district
225 to other uses consistent with this act.

226 c. Landowners within an agricultural industrial center
227 economic overlay planning district may apply for an amendment to
228 the local government comprehensive plan pursuant to s. 163.3187
229 for the purpose of expanding the industrial uses or facilities
230 associated with the agricultural industrial centers or expanding

3-03729-08

20082634__

231 the agricultural industrial centers to include industrial uses or
232 facilities that are not dependent upon agriculture. Each
233 application for a comprehensive plan amendment under this
234 subparagraph may not increase the physical footprint of the
235 agricultural industrial center by more than 50 percent of the
236 existing footprint unless the applicant can demonstrate that
237 infrastructure capacity exists or can be provided to support the
238 improvements as required by the applicable sections of this
239 chapter. Any single application may not increase the physical
240 footprint of the existing agricultural industrial center by more
241 than 200 percent or 640 acres, whichever is less. Such amendment
242 is presumed to be consistent with rule 9J-5.006(5), Florida
243 Administrative Code, and may include land uses and intensities of
244 use consistent and compatible with the uses and intensities of
245 use of the agricultural industrial center. Such presumption may
246 be rebutted by clear and convincing evidence.

247 d. The local government and the owner of a parcel of land
248 that is the subject of an application for an amendment must,
249 within 180 days after the date on which the local government
250 receives a complete application, negotiate in good faith to reach
251 a consensus on the proposed expansion, land uses, and intensities
252 of use that are consistent with the uses and intensities of use
253 of the agricultural industrial center.

254 e. Within 30 days after the date of a local government's
255 receipt of such an application, the local government and owner
256 must agree in writing to a schedule for information submittal,
257 public hearings, negotiations, and final action on the amendment.
258 Such schedule may be subsequently altered only with the written

3-03729-08

20082634__

259 consent of the local government and the owner. Compliance with
260 such schedule constitutes good-faith negotiations.

261 f. The amendment must be transmitted to the state land
262 planning agency for review pursuant to s. 163.3184 immediately
263 upon the conclusion of good-faith negotiations, regardless of
264 whether the local government and owner reach a consensus on the
265 proposed expansion, land uses, or intensities of use that are
266 consistent with the uses and intensities of use of the
267 agricultural industrial center. If the local government fails to
268 transmit the amendment within 180 days after the date of receipt
269 of a complete application, the amendment must be immediately
270 transferred to the state land planning agency for such review at
271 the first available transmittal cycle. An amendment transmitted
272 to the state land planning agency pursuant to this subparagraph
273 is presumed to be consistent with rule 9J-5.006(5), Florida
274 Administrative Code. Such presumption may be rebutted by clear
275 and convincing evidence.

276 g. If the owner fails to negotiate in good faith, an
277 amendment submitted under this subparagraph is not entitled to
278 the rebuttable presumption under this subparagraph during the
279 negotiation or amendment process.

280 Section 3. This act shall take effect July 1, 2008.