

By Senator Hays

20-01079-11

20111440\_\_

1                                   A bill to be entitled  
2       An act relating to rural land development; amending s.  
3       163.3177, F.S.; adding the Fish and Wildlife  
4       Conservation Commission and removing the water  
5       management districts from the list of governmental  
6       entities that must cooperate in providing assistance  
7       in the implementation of laws governing land use  
8       planning and development and related agency rule;  
9       adding a landowner as a recipient of assistance in  
10      designating rural land stewardship areas; exempting a  
11      landowner or local government from a requirement to  
12      demonstrate need; authorizing a landowner to petition  
13      a local government for certain land designations;  
14      adding economic development as a planning goal;  
15      removing the Department of Environmental Protection  
16      and water management districts as agencies providing  
17      assistance with mapping environmental areas worthy of  
18      protection; requiring the provision of technical  
19      assistance as needed to a local government in the  
20      implementation of rural land stewardship; removing a  
21      provision that expands the role of the Department of  
22      Community Affairs as a resource agency; removing a  
23      provision requiring the department to encourage  
24      participation of certain types of local governments;  
25      including the protection of private property rights  
26      for rural areas as a broad principle of rural  
27      sustainability; removing the notification requirement  
28      by the local government to the department of intent to  
29      designate a rural land stewardship area; modifying the

20-01079-11

20111440\_\_

30 criteria for designating a rural land stewardship  
31 area; removing consideration of certain criteria  
32 relating to a functional mix of land uses; removing as  
33 a review consideration the control of sprawl;  
34 providing for the designation of a receiving area and  
35 removing requirement for prior review by the  
36 Department of Community Affairs for designation of a  
37 receiving area; providing that the applicant rather  
38 than the developer is required to coordinate listed  
39 species protection; modifying the considerations that  
40 are balanced in designating a receiving area;  
41 providing for the establishment of a rural land  
42 stewardship overlay zoning district; providing for  
43 stewardship credits rather than transferable rural  
44 land use credits to be created following the  
45 designation of stewardship receiving areas; modifying  
46 the criteria that affect underlying permitted uses,  
47 density, or intensity of land uses; providing for an  
48 increase in density or intensity of use; providing for  
49 compensation to landowners who implement specified  
50 land management activities of public benefit; removing  
51 a reporting requirement; providing legislative  
52 findings that the act be implemented pursuant to law  
53 rather than rule; repealing certain rules of the  
54 Florida Administrative Code; providing an effective  
55 date.

56  
57 Be It Enacted by the Legislature of the State of Florida:  
58

20-01079-11

20111440

59 Section 1. Paragraph (d) of subsection (11) of section  
60 163.3177, Florida Statutes, is amended, present paragraphs (e)  
61 through (h) of that subsection are redesignated as paragraphs  
62 (f) through (i), respectively, and a new paragraph (e) is added  
63 to that subsection, to read:

64 163.3177 Required and optional elements of comprehensive  
65 plan; studies and surveys.—

66 (11)

67 (d)1. The ~~department, in cooperation with the~~ Department of  
68 Agriculture and Consumer Services, in cooperation with the Fish  
69 and Wildlife Conservation Commission, the Department of  
70 Environmental Protection, ~~water management districts~~, and  
71 regional planning councils, shall provide assistance to  
72 landowners and local governments in the implementation of this  
73 paragraph and rule 9J-5.006(5)(1), Florida Administrative Code,  
74 if a landowner and a local government are not required to  
75 demonstrate need based on population growth or on any other  
76 basis. Implementation of those provisions shall include a  
77 process by which a landowner ~~the department~~ may petition a  
78 authorize local government governments to designate all or  
79 portions of lands classified in the future land use element as  
80 predominantly agricultural, rural, open, open-rural, or a  
81 substantively equivalent land use, as a rural land stewardship  
82 area within which planning and economic incentives are applied  
83 to encourage economic development through the implementation of  
84 innovative and flexible planning and development strategies and  
85 creative land use planning techniques, including those contained  
86 in this section ~~herein~~ and in rule 9J-5.006(5)(1), Florida  
87 Administrative Code. Assistance may include, but is not limited

20-01079-11

20111440\_\_

88 to:

89 a. Assistance with mapping environmental areas worthy of  
90 protection and from the Department of Environmental Protection  
91 ~~and water management districts~~ in creating the geographic  
92 information systems land cover database and aerial  
93 photogrammetry needed to prepare for a rural land stewardship  
94 area;

95 b. Support for local government implementation of rural  
96 land stewardship concepts by providing information and technical  
97 assistance to local governments as needed; and ~~regarding~~

98 c. Making available land acquisition programs that may be  
99 used by the local government or landowners to leverage the  
100 protection of greater acreage and maximize the effectiveness of  
101 rural land stewardship areas. ~~;~~ and

102 ~~e. Expansion of the role of the Department of Community~~  
103 ~~Affairs as a resource agency to facilitate establishment of~~  
104 ~~rural land stewardship areas in smaller rural counties that do~~  
105 ~~not have the staff or planning budgets to create a rural land~~  
106 ~~stewardship area.~~

107 2. ~~The department shall encourage participation by local~~  
108 ~~governments of different sizes and rural characteristics in~~  
109 ~~establishing and implementing rural land stewardship areas. It~~  
110 is the intent of the Legislature that rural land stewardship  
111 areas be used to further the following broad principles of rural  
112 sustainability: restoration and maintenance of the economic  
113 value of rural land; control of urban sprawl; identification and  
114 protection of ecosystems, habitats, and natural resources;  
115 promotion of ~~rural~~ economic activity within rural areas;  
116 maintenance of the viability of Florida's agricultural economy;

20-01079-11

20111440\_\_

117 and protection of private property rights in the character of  
118 rural areas of Florida. Rural land stewardship areas may be  
119 multicounty in order to encourage coordinated regional  
120 stewardship planning.

121 ~~3. A local government, in conjunction with a regional~~  
122 ~~planning council, a stakeholder organization of private land~~  
123 ~~owners, or another local government, shall notify the department~~  
124 ~~in writing of its intent to designate a rural land stewardship~~  
125 ~~area. The written notification shall describe the basis for the~~  
126 ~~designation, including the extent to which the rural land~~  
127 ~~stewardship area enhances rural land values, controls urban~~  
128 ~~sprawl, provides necessary open space for agriculture and~~  
129 ~~protection of the natural environment, promotes rural economic~~  
130 ~~activity, and maintains rural character and the economic~~  
131 ~~viability of agriculture.~~

132 3.4. A rural land stewardship area may not ~~shall~~ be ~~not~~  
133 less than 10,000 acres, and shall be located outside of  
134 municipalities and established urban service areas or planned  
135 future urban service areas ~~growth boundaries~~, and shall be  
136 designated by plan amendment, or more than one plan amendment if  
137 the rural land stewardship area encompasses more than one  
138 county. The plan amendment designating a rural land stewardship  
139 area is ~~shall be~~ subject to review by the Department of  
140 Community Affairs pursuant to s. 163.3184 and shall provide for  
141 the following:

142 a. Criteria for the designation of receiving areas within  
143 rural land stewardship areas in which innovative planning and  
144 development strategies may be applied. Criteria shall at a  
145 minimum provide for the following: adequacy of suitable land to

20-01079-11

20111440\_\_

146 accommodate development so as to avoid conflict with  
147 environmentally sensitive areas, resources, and habitats;  
148 compatibility between and transition from higher density uses to  
149 lower intensity rural uses; and the establishment of receiving  
150 area service boundaries that ~~which~~ provide for a transition from  
151 ~~separation between~~ receiving areas and other land uses within  
152 the rural land stewardship area through limitations on the  
153 extension of services; ~~and connection of receiving areas with~~  
154 ~~the rest of the rural land stewardship area using rural design~~  
155 ~~and rural road corridors.~~

156 b. Goals, objectives, and policies setting forth the  
157 innovative planning and development strategies to be applied  
158 within rural land stewardship areas pursuant to the provisions  
159 of this section.

160 c. A process for the implementation of innovative planning  
161 and development strategies within the rural land stewardship  
162 area, including those described in this subsection and rule 9J-  
163 5.006(5)(1), Florida Administrative Code, which provide for a  
164 functional mix of land uses, ~~including adequate available~~  
165 ~~workforce housing, including low, very low and moderate income~~  
166 ~~housing for the development anticipated in the receiving area~~  
167 ~~and which are applied~~ through the adoption by the local  
168 government of zoning and land development regulations applicable  
169 to the rural land stewardship area.

170 d. A process that ~~which~~ encourages visioning pursuant to s.  
171 163.3167(11) to ensure that innovative planning and development  
172 strategies comply with the provisions of this section.

173 e. The ~~control of sprawl through the~~ use of applicable  
174 innovative strategies and creative land use techniques

20-01079-11

20111440\_\_

175 consistent with the provisions of this subsection and rule 9J-  
176 5.006(5)(1), Florida Administrative Code.

177 ~~4.5.~~ A receiving area may ~~shall~~ be designated only pursuant  
178 to procedures adopted in the local government's land development  
179 regulations ~~by the adoption of a land development regulation.~~  
180 ~~Prior to the designation of a receiving area, the local~~  
181 ~~government shall provide the Department of Community Affairs a~~  
182 ~~period of 30 days in which to review a proposed receiving area~~  
183 ~~for consistency with the rural land stewardship area plan~~  
184 ~~amendment and to provide comments to the local government. At~~  
185 the time of the designation of a stewardship receiving area, a  
186 listed species survey shall ~~will~~ be performed. If listed species  
187 occur on the receiving area site, the applicant ~~developer~~ shall  
188 coordinate with each appropriate local, state, or federal agency  
189 to determine if adequate provisions have been made to protect  
190 those species in accordance with applicable regulations. In  
191 determining the adequacy of provisions for the protection of  
192 listed species and their habitats, the rural land stewardship  
193 area shall be considered as a whole, and the potential impacts  
194 and protective measures taken within ~~to~~ areas to be developed as  
195 receiving areas shall be considered together with the  
196 substantial ~~environmental~~ benefits derived from lands set aside  
197 and protective measures taken outside the designated receiving  
198 ~~of areas protected as sending areas in fulfilling this criteria.~~

199 ~~5.6.~~ Upon the adoption of a plan amendment creating a rural  
200 land stewardship area, the local government shall, by ordinance,  
201 establish a rural land stewardship overlay zoning district that  
202 provides the methodology for the creation, conveyance, and use  
203 of transferable rural land use credits, otherwise referred to as

20-01079-11

20111440\_\_

204 stewardship credits, the application of which does ~~shall~~ not  
205 constitute a right to develop land, nor increase density of  
206 land, except as provided by this section. The total amount of  
207 stewardship transferable rural land use credits within the rural  
208 land stewardship area must enable the realization of the long-  
209 term vision and goals for the ~~25-year or greater projected~~  
210 ~~population of the rural land stewardship area~~, which may take  
211 into consideration the anticipated effect of the proposed  
212 receiving areas. The estimated amount of the receiving area  
213 shall be determined by using projections based on available data  
214 and the development potential that is represented by the  
215 stewardship credits created within the rural land stewardship  
216 area.

217 6. Stewardship Transferable rural land use credits are  
218 subject to the following limitations:

219 a. Stewardship Transferable rural land use credits may ~~only~~  
220 exist only within a rural land stewardship area.

221 b. Stewardship Transferable rural land use credits may ~~only~~  
222 be credited only from lands designated as stewardship sending  
223 areas and may be used only on lands designated as stewardship  
224 receiving areas and ~~then~~ solely for the purpose of implementing  
225 innovative planning and development strategies and creative land  
226 use planning techniques adopted by the local government pursuant  
227 to this section.

228 c. Stewardship Transferable rural land use credits assigned  
229 to a parcel of land within a rural land stewardship area shall  
230 cease to exist if the parcel of land is removed from the rural  
231 land stewardship area by plan amendment.

232 d. Neither the creation of the rural land stewardship area



20-01079-11

20111440\_\_

233 by plan amendment nor the adoption of the rural land stewardship  
234 zoning overlay district ~~assignment of transferable rural land~~  
235 ~~use credits~~ by the local government shall ~~operate to~~ displace  
236 the underlying permitted uses, density, or intensity of land  
237 uses assigned to a parcel of land within the rural land  
238 stewardship area which existed before the adoption of the plan  
239 amendment or zoning overlay district; however, once stewardship  
240 ~~if transferable rural land use~~ credits are transferred from a  
241 designated sending area ~~parcel~~ for use within a designated  
242 receiving area, the underlying density assigned to the  
243 designated sending area ~~parcel of land~~ shall cease to exist.

244 e. The underlying permitted uses, density, or intensity on  
245 each parcel of land located within a rural land stewardship area  
246 may ~~shall~~ not be increased or decreased by the local government,  
247 except as a result of the conveyance or use of stewardship  
248 ~~transferable rural land use~~ credits, as long as the parcel  
249 remains within the rural land stewardship area.

250 f. Stewardship ~~Transferable rural land use~~ credits shall  
251 cease to exist on a parcel of land where the underlying density  
252 assigned to the parcel of land is utilized.

253 g. An increase in the density or intensity of use on a  
254 parcel of land located within a designated receiving area may  
255 occur only through the assignment or use of stewardship  
256 ~~transferable rural land use~~ credits and does ~~shall~~ not require a  
257 plan amendment.

258 h. A change in the density or intensity of land use on  
259 parcels located within receiving areas shall be specified in a  
260 development order that ~~which~~ reflects the total number of  
261 stewardship ~~transferable rural land use~~ credits assigned to the

20-01079-11

20111440\_\_

262 parcel of land and the infrastructure and support services  
263 necessary to provide for a functional mix of land uses  
264 corresponding to the plan of development.

265 i. Land within a rural land stewardship area may be removed  
266 from the rural land stewardship area through a plan amendment.

267 j. Stewardship ~~Transferable rural land use~~ credits may be  
268 assigned at different ratios of credits per acre according to  
269 the natural resource or other beneficial use characteristics of  
270 the land and according to the land use remaining following the  
271 transfer of credits, with the highest number of credits per acre  
272 assigned to the most environmentally valuable land or, in  
273 locations where the retention of open space and agricultural  
274 land is a priority, to such lands.

275 k. The use or conveyance of stewardship ~~transferable rural~~  
276 ~~land use~~ credits must be recorded in the public records of the  
277 county in which the property is located as a covenant or  
278 restrictive easement running with the land in favor of the  
279 county and ~~either~~ the Department of Environmental Protection,  
280 the Department of Agriculture and Consumer Services, a water  
281 management district, or a recognized statewide land trust.

282 7. Owners of land within rural land stewardship sending  
283 areas should be provided incentives to enter into rural land  
284 stewardship agreements, pursuant to existing law and rules  
285 adopted thereto, with state agencies, water management  
286 districts, the Fish and Wildlife Conservation Commission, and  
287 local governments to achieve mutually agreed upon conservation  
288 objectives. Such incentives may include, but are not ~~be~~ limited  
289 to, the following:

290 a. Opportunity to accumulate transferable mitigation

20-01079-11

20111440\_\_

291 credits for use or sale.

292       b. Extended permit agreements.

293       c. Opportunities for recreational leases and ecotourism.

294       d. Compensation for the achievement of specified land

295 management activities of public benefit, including, but not

296 limited to: facility siting and corridors, recreational leases,

297 water conservation and storage, water reuse, wastewater

298 recycling, water supply and water resource development, nutrient

299 removal, environmental restoration and mitigation, public

300 recreation, listed species protection and recovery, wildlife

301 corridor management and enhancement, and activities relating to

302 the reduction of greenhouse gas emissions. Payment for specified

303 land management services on publicly owned land, or property

304 under covenant or restricted easement in favor of a public

305 entity.

306       e. Option agreements for sale to public entities or private

307 land conservation entities, in either fee or easement, upon

308 achievement of specified conservation objectives.

309       ~~8. The department shall report to the Legislature on an~~

310 ~~annual basis on the results of implementation of rural land~~

311 ~~stewardship areas authorized by the department, including~~

312 ~~successes and failures in achieving the intent of the~~

313 ~~Legislature as expressed in this paragraph.~~

314       (e) The Legislature finds that the provisions of paragraph

315 (d) constitute an overlay of land use options that provide

316 economic and regulatory incentives for landowners outside

317 established and planned urban service areas to conserve and

318 manage vast areas of land for the benefit of Florida's residents

319 and the natural environment while maintaining and enhancing the

20-01079-11

20111440\_\_

320 asset value of their landholdings. It is the intent of the  
321 Legislature that the provisions of paragraph (d) be implemented  
322 pursuant to law. Rulemaking authority is not authorized to  
323 implement paragraph (d).

324 Section 2. Rules 9J-5.026 and 9J-11.023, Florida  
325 Administrative Code, are repealed, and the Department of State  
326 is directed to remove these rules from the Florida  
327 Administrative Code.

328 Section 3. This act shall take effect July 1, 2011.