

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SB 1720

INTRODUCER: Senator Rodriguez

SUBJECT: Marine Encroachment on Military Operations

DATE: February 7, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Ingram</u>	<u>Proctor</u>	<u>MS</u>	Favorable
3.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	Pre-meeting

I. Summary:

SB 1720 adds various annexes and a range to the list of major military installations and ranges that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues with local government planning than others.

These include the annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School. Naval Air Station Key West associated with Monroe County and Key West is currently on the list, however the annexes and range are not.

The bill takes effect July 1, 2024.

II. Present Situation:

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²

¹ Chapter 85-55, Laws of Fla.

² Section 163.3177, F.S.

All development, both public and private, and all development orders³ approved by local governments must be consistent with the local government's comprehensive plan.⁴ Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.⁶

The future land use plan and plan amendments must be based upon surveys, studies, and data regarding the area, as applicable, including the compatibility of uses on lands adjacent to or in close proximity to military installations.⁷

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.⁸ Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."⁹ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Commerce (Commerce), rather than communicated directly to the permitting local government by each individual reviewing agency.

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.¹⁰ Then, the local governing body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.¹¹

If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as "reviewing agencies":

- Commerce, designated as the "state land planning agency";¹²
- The appropriate regional planning council;
- The appropriate water management district;
- The Department of Environmental Protection;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;

³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

⁴ Section 163.3194(3), F.S.

⁵ Section 163.3177(6)(a), F.S.

⁶ *Id.*

⁷ Section 163.3177(6)(2)(f), F.S.

⁸ Chapter 2011-139, s. 17, Laws of Fla.

⁹ Section 163.3184(3) and (4), F.S.

¹⁰ Sections 163.3174(4)(a), F.S.

¹¹ Section 163.3184(11), F.S.

¹² Section 163.3164(44), F.S.

- The commanding officer of an affected military installation;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.¹³

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.¹⁴ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.¹⁵

Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.¹⁶ Alternatively, the state coordinated review requires agencies to provide comments to Commerce.¹⁷ Commerce then has a total of 60 days from receipt to provide the local government with a report containing the state's objections, recommendations, and comments.¹⁸

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by Commerce, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.¹⁹ The second public hearing must be conducted within 180 days after the agency comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.²⁰

Exchange of Information between Local Governments and Military Installations

Section 163.3175, F.S., provides the following legislative findings relating to land use around military installations:

- Incompatible development of land close to military installations can adversely affect the ability of such an installation to carry out its mission;
- Such development also threatens the public safety because of the possibility of accidents occurring within the areas surrounding a military installation;
- The economic vitality of a community is affected when military operations and missions must relocate because of incompatible urban encroachment; and

¹³ Section 163.3184(1)(c) and (3)(b)1., F.S.

¹⁴ Section 163.3184(3)(b)2. and (4)(c), F.S. Commerce has special requirements for providing comments on plans or plan amendments following the state coordinated review process.

¹⁵ *Id.*

¹⁶ Section 163.3184(3)(b)2., F.S.

¹⁷ Section 163.3184(4)(c) and (d), F.S.

¹⁸ Section 163.3184(4)(d), F.S.; see Commerce, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited Jan. 23, 2024).

¹⁹ Section 163.3184(11), F.S.

²⁰ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to Commerce and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

- Therefore, it is desirable for the local governments in the state to cooperate with military installations to encourage compatible land use, help prevent incompatible encroachment, and facilitate the continued presence of major military installations in this state.

The section identifies sixteen major military installations that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues than others.²¹ It also identifies proximate local governments and requires those local governments to transmit to the commanding officer of the relevant associated installation or installations the following:

- Information relating to proposed changes to the local government's comprehensive plan or land development regulations which, if approved, would affect the intensity, density, or use of the land adjacent to or in close proximity to the military installation; and
- At the request of the commanding officer, copies of applications for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within areas defined in the local government's comprehensive plan as being in a zone of influence of the military installation.²²

Each affected local government must provide the military installation an opportunity to review and comment on the proposed changes.²³ The commanding officer or his or her designee may provide to the affected local government advisory comments, data, and analyses on the effect the proposed changes may have on the mission of the military installation.²⁴ In making a determination on the proposed changes, the affected local government must consider and weigh the strategic mission of the base, public safety, and economic vitality associated with the base's operations, while also respecting private property rights and avoiding undue restrictions on those rights.²⁵

All comments on comprehensive plan amendments must be forwarded to the state land planning agency.²⁶ To facilitate the exchange of information, a representative of a military installation acting on behalf of all military installations within that jurisdiction serves as a nonvoting member of the county's or affected local government's land planning or zoning board.²⁷

III. Effect of Proposed Changes:

The bill amends s. 163.3175, F.S., to add various annexes and a range to the list of major military installations and ranges that, due to their mission and activities, have a greater potential for experiencing compatibility and coordination issues with local government planning than others.

These include the various annexes across Boca Chica Key and Key West as well as the Fleming Bay/Patton Water Drop Zone training range used by the Army Special Forces Underwater Operations School. Naval Air Station Key West associated with Monroe County and Key West is currently on the list, however the annexes and range are not.

²¹ Section 163.3175(2)(a)-(p), F.S.

²² Section 163.3175(4), F.S.

²³ *Id.*

²⁴ Section 163.3175(5), F.S.

²⁵ Section 163.3175(6), F.S.

²⁶ *Id.*

²⁷ Section 163.3175(7), F.S.

The bill adds the term “ranges” to clarify that the exchange of information is also between local governments and military ranges. This addition conforms to the new and existing language regarding the list of compatibility and coordination issues with local government planning. Currently, section 163.3175, F.S., speaks to the compatibility of military installations only.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 163.3175 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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