

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 Transportation and Economic Development Appropriations Committee

BILL: CS/CS/SB 2572

INTRODUCER: Agriculture Committee and Senators Dean and Baker

SUBJECT: Rural Agricultural Industrial Centers

DATE: April 20, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Poole	AG	Fav/CS
2.	Wolfgang	Yeatman	CA	Favorable
3.	Pugh	Cooper	CM	Favorable
4.	Weaver	Noble	TA	Fav/CS
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes
 B. AMENDMENTS..... Technical amendments were recommended
 Amendments were recommended
 Significant amendments were recommended

I. Summary:

Florida has few economic development incentives specific to its rural areas. Instead, the state waives wage, match, or other eligibility criteria, or increases the amount of tax refunds, for businesses seeking Florida's general incentives, as a way to encourage them to locate in rural areas. Additionally, the state's Rural Economic Development Initiative (REDI) tries to expedite permit reviews and other state agency requirements for non-urban communities.

This bill creates an alternate comprehensive plan amendment process for certain rural agricultural industry centers that may lead to greater economic development opportunities in the communities where they are located. The term rural agricultural industry center is defined as a developed parcel of land in an unincorporated area with an operating agricultural industrial facility that:

- Employs at least 200 full-time employees;
- Is used for processing and preparing for transport farm products or biomass material that could be used for the production of fuel, renewable energy, bioenergy, or alternative fuel;
- May include contiguous land not used for the cultivation of crops but on which activities are conducted that are essential to the operation of the facility; and

- Is located in or within 10 miles of a Rural Area of Critical Economic State Concern (RACEC).

One rural center that may meet the definition is the Okeelanta sugar refinery and biomass energy generator, which is located on one of the sites being considered for Florida's "inland port logistics center." The inland port is being considered by the Florida Department of Transportation (DOT) to improve the transit of cargo off-loaded from the Port of Palm Beach and other area ports.

This bill establishes procedures for a landowner to apply for an amendment to the local comprehensive plan to expand the uses or facilities of an agricultural industrial center, and requires the local government to amend its comprehensive plan within 6 months if the application meets the statutory requirements. There is a presumption, rebuttable by a preponderance of the evidence, that such an amendment does not promote urban sprawl.

This bill does not apply in rural areas with an optional sector plan or in a rural land stewardship area.

Finally, the bill clarifies that any land area that is not designated as a rural area of critical economic concern, pursuant to s. 288.0656(7), F.S., does not hold any of the rights or benefits derived from such designation.

Sections 163.3177, 163.3184, and 380.06, F.S., are amended by the bill.

II. Present Situation:

General background on comprehensive planning requirements

In 1985, the Legislature passed the Local Government Comprehensive Planning and Land Development Regulation Act¹ commonly known as Florida's Growth Management Act (act). Local governments are required to adopt local government comprehensive plans to guide growth and development, and to implement those plans through land development regulations and development orders. The act establishes procedures for submission of comprehensive plans and amendments to the state, and authorizes the Department of Community Affairs' Division of Community Planning to review these submissions for compliance with the act.

Section 163.3177, F.S., provides the requirements for elements of local comprehensive plans. A listing of required elements includes elements for capital improvement, future land use, intergovernmental coordination, housing and transportation. For rural governments, the future land use component shall include information about the "need for job creation, capital investment, and economic development that will strengthen and diversify the community's economy."²

Rural Florida and its economic initiatives

A "rural community" is defined by s. 288.0656, F.S., as:

¹ Part II of ch.163, F.S.

² Section 163.3177(6)(a), F.S.

- A county with a population of 75,000 or less;
- A county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less;
- A municipality within a county with a population of 75,000 or less or a county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less; or
- A federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified by statute and verified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED).

Thirty-one Florida counties meet the current definitions of "rural" as outlined above.³ Pursuant to executive order of the Governor, 27 of these rural counties⁴ (and Highlands County, which qualified as a rural county until 2008) have been categorized into one of three Rural Areas of Critical Economic Concern: North Central, Northwest, and South Central. These Rural Areas of Critical Economic Concern (RACECs) are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions.

Prior to the designation of RACECs, the Rural Economic Development Initiative (REDI)⁵ was created to encourage and align critical state agency participation and investment around important rural issues and opportunities. Twenty-three state agencies or public-private entities are involved in REDI. Complementary to the REDI and RACEC programs has been the "Rural Economic Development Catalyst Project," designed to further goals set forth in REDI by gathering economic information and perspectives for Florida's three RACECs. The catalyst project is intended to identify, improve, and market regional physical sites within the RACEC communities, thus facilitating the location of businesses that can deliver significant job creation.

In May 2007, each RACEC, in conjunction with OTTED and Enterprise Florida, Inc. (EFI), the state's public-private recruitment partner, engaged in the identification and selection of possible sites for its respective catalyst project. Additionally, each RACEC has identified targeted industries for the catalyst sites, and the individual local governments are working with EFI and OTTED to recruit new businesses.⁶

Another complementary rural incentive is the Rural Infrastructure Fund,⁷ created within OTTED in 1996 to facilitate the planning, preparation, and financing of infrastructure projects in rural communities. Three project grants are available under the program: Total Project Participation Grants, Feasibility Grants, and Preclearance Review Grants. The maximum amount available per grant for each project is limited to 25 percent of total appropriated funds. Total Participation

³ Florida Estimates of Population- 2008. Prepared by the University of Florida's Bureau of Economic and Business Research. Pages 30-31.

⁴ Five communities also are within RACECs, although their counties are not: Freeport in Walton County; Belle Glade, Pahokee, and South Bay in Palm Beach County; and the Immokalee community in Collier County.

⁵ Section 288.0656, F.S.

⁶ More background and updated information about the RACECs is available at <http://www.eflorida.com/KnowledgeCenter.aspx?id=3762>. Log-in required. Last visited March 14, 2009.

⁷ Section 288.0655, F.S.

Grants may fund up to 30 percent of the total infrastructure project costs related to specific job-creating opportunities where applicants have applied for the maximum available under other state or federal infrastructure funding programs. Total participation grants are intended to leverage local, state, and federal funds.

Counties and cities within RACECs also have two special provisions within s. 163.3187, F.S. This section limits amendments to comprehensive plans to two times during any calendar year unless an exception is provided. But, a comprehensive plan amendment that is submitted by a local government within a RACEC, and which meets economic development objectives, may be approved without regard to the statutory limit of two annually.⁸ Additionally, a so-called “small-scale amendment” within a RACEC can be for a project up to 20 acres in size, double the size for non-RACEC communities.⁹

There are no specific provisions that apply to an entity, similar in definition to the new term rural agricultural industrial center.

Inland ports

An inland port is a distribution site located off-site that supports intermodal transfers of cargo between ship, rail, truck, and even aircraft. They are typically located in rural areas where the land costs and land uses are less restrictive, and there is room to expand.

Popular for years in Europe and Asia, the United States now has several inland ports, each a bit different from the others. For example:¹⁰

- Indiana links its three ports through an inland waterway that connects to Lake Michigan, and utilizes an extensive system of freight trains to transport cargo throughout the Midwest.
- The Virginia Inland Port is 220 miles from the coast, and utilizes an extensive network of rail to carry cargo from the marine warehouses for distribution to points north, south, and west. Also, the inland port has become home to a growing number of distribution centers, from Home Depot and Family Dollar Stores to Sysco. It also is a U.S. Customs-designated port of entry, offering a full range of services to foreign customers.
- The Fort Worth area of Texas is home to the Alliance Texas Global Logistic Hub, which handles rail, air, and truck cargo, and is home to FedEx’s Southwest Regional Headquarters. It is part of a master-plan community to include residential and commercial development, as well.

Since 2007, DOT has been working with the Port of Palm Beach and other area transportation partners to evaluate proposals for an inland port logistical center near Lake Okeechobee.¹¹ Proponents say the inland port could improve cargo distribution at the Port of Palm Beach, Port Everglades, and Port of Miami; alleviate traffic congestion on I-95 and the Florida Turnpike; encourage the use of passenger rail along Florida’s eastern coast; and create jobs and promote economic development in the communities around Lake Okeechobee. The site has not been

⁸ Section 163.3187(1)(o), F.S.

⁹ Section 163.3187(1)(c)4., F.S.

¹⁰ See http://outsourced-logistics.com/logistics_services/outlog_story_7604/.

¹¹ See [http://www.ftc.state.fl.us/PDF/Presentations/Port_of_Palm_Beach_Inland_Port_\(9-7-06\).pdf](http://www.ftc.state.fl.us/PDF/Presentations/Port_of_Palm_Beach_Inland_Port_(9-7-06).pdf).

selected. Developing the project will require state, local-government, and private investment in the necessary infrastructure.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3177, F.S., by creating an alternative comprehensive plan amendment process for defined types of agricultural facilities.

First, the new provision expresses the following legislative findings:

- There are a number of rural agricultural industrial centers that handle agricultural production, which centers have a significant amount of existing infrastructure used for processing, producing, or distributing agricultural products.
- These centers often are located in areas largely dependent on agriculture and many such areas have been designated as a RACEC.
- The communities in or near which the centers are located would lose a substantial amount of their economy if the business of the agricultural industrial center was lost and not replaced with other job-creating enterprises.
- It is a compelling state interest to protect these communities from economic upheaval due to adverse changes in the agricultural economy by encouraging diversification of the employment base within agricultural industrial centers so that jobs are not solely dependent upon, but are compatible with and complement, agricultural operations.
- The expansion and diversification of these centers should be done in such a way that it does not promote urban sprawl into surrounding agricultural and rural areas.

It also defines rural agricultural industrial center as a developed parcel of land in an unincorporated area with an operating agricultural industrial facility that:

- Employs at least 200 full-time employees;
- Is used for processing and preparing for transport farm products or biomass material that could be used for the production of fuel, renewable energy, bioenergy, or alternative fuel;
- May include contiguous land not used for the cultivation of crops but on which activities are conducted that are essential to the operation of the facility; and
- Is located in or within 10 miles of a RACEC.

Any landowner within a rural agricultural industrial center may apply for an amendment to the applicable local government's comprehensive plan to designate and expand the industrial uses or facilities of the existing agricultural industrial center, which may include uses or facilities not dependent upon, but which are compatible with, agriculture. The amendment:

- May not increase the existing rural agricultural industrial center by more than 50 percent or 320 acres, whichever is greater;
- Must propose a project that would create at least 50 new full-time jobs;
- Must demonstrate that infrastructure capacity exists or will be provided to support the expanded center at standards adopted in the local government comprehensive plan; and
- Must contain measures that ensure that any adverse environmental impacts will be adequately addressed and mitigation implemented, or be able to demonstrate that the comprehensive plan contains such provisions to accomplish that.

Within 6 months after receiving an application that meets the requirements of the statutory changes, the local government must amend its comprehensive plan to include goals, objectives, and policies that provide for the expansion of rural agricultural industrial centers and discourage urban sprawl in the surrounding areas.

An amendment that meets the requirements of these provisions is presumed to be consistent with rule 9J-5.006(5), Florida Administrative Code, related to urban sprawl, subject to rebuttal by a preponderance of the evidence.

This bill does not apply to an optional sector plan adopted pursuant to s. 163.3245, F.S., related to large-scale regional build-out, or a rural land stewardship area designated pursuant to s. 163.3177(11), F.S., related to protection of traditionally rural areas.

Clarifies that any land area that is not designated as a rural area of critical economic concern, pursuant to s. 288.0656(7), F.S., does not hold any of the rights or benefits derived from such designation.

Section 2 amends s. 162.3184(17), F.S., to conform statutory references due to the renumbering of subsections in another section of law.

Section 3 amends s. 380.06(24)(1), F.S., to conform a statutory reference due to the renumbering of subsections in another section of law.

Section 4 provides that this act shall take effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate, but likely positive. Because CS/SB 2572 may facilitate the filing of comprehensive plan amendments by eligible landowners for new uses of their property, they may experience a positive economic benefit. The requirement that projects within the rural agricultural industrial center create at least 50 new, full-time jobs also could be positive for displaced workers in those communities.

C. Government Sector Impact:

The bill requires local governments to amend their comprehensive plans within 6 months, if they receive an eligible plan amendment. It is unknown if this time constraint will have a cost impact on local governments or the Department of Community Affairs. Proposed comprehensive plan amendments submitted to DCA for review under the provisions of this bill would be subject to the \$200 fee, paid by local governments, established in CS/SB 1786, if CS/SB 1786 bill, or similar legislation becomes law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill states there are a “number” of rural agricultural industry centers in Florida. Information provided to committee staff indicates there may be at least three such centers in Florida: the Okeelanta sugar refinery/electric co-generation plant in Palm Beach County; a citrus plant in Hendry County; and a paper mill in Putnam County.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Agriculture on March 24, 2009:**

Committee Substitute for Senate Bill 2572 is different from Senate Bill 2572 in that it changes language to clarify that the applicant’s comprehensive plan amendment must ensure that any adverse environmental impacts caused by the expanded, rural agricultural industrial center will be adequately addressed.

CS by Transportation and Economic Development Appropriations on April 20, 2009:

The committee substitute clarifies that any land area that is not designated as a rural area of critical economic concern, pursuant to s. 288.0656(7), F.S., does not hold any of the rights or benefits derived from such designation.

B. Amendments:

None.

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