

By Senator Simmons

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1                   A bill to be entitled  
2       An act relating to the Everglades Protection Area;  
3       amending s. 163.3184, F.S.; requiring comprehensive  
4       plans and plan amendments adopted by the governing  
5       bodies of local governments whose boundaries include  
6       any portion of the Everglades Protection Area to  
7       follow the state coordinated review process; requiring  
8       the Department of Environmental Protection to make  
9       certain determinations for such plans and amendments,  
10      to provide written notice of its determination to the  
11      local governments within a specified timeframe, and to  
12      coordinate with the local governments on certain  
13      mitigation measures; requiring certain governing  
14      bodies of local governments to transmit adopted plan  
15      amendments to the department within a specified  
16      timeframe; providing a condition for such plans and  
17      plan amendments to be deemed complete; amending s.  
18      420.5095, F.S.; conforming a cross-reference;  
19      providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Paragraph (a) of subsection (2), paragraph (a)  
24      of subsection (3), subsection (4), paragraph (b) of subsection  
25      (5), and paragraph (a) of subsection (11) of section 163.3184,  
26      Florida Statutes, are amended, and paragraph (d) is added to  
27      subsection (2) of that section, to read:

28       163.3184 Process for adoption of comprehensive plan or plan  
29      amendment.—

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30 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

31 (a) Plan amendments adopted by local governments shall  
32 follow the expedited state review process in subsection (3),  
33 except as set forth in paragraphs (b)-(d) ~~(b) and (c)~~.

34 (d) Plans and plan amendments that are adopted by the  
35 governing body of a local government whose boundaries include  
36 any portion of the Everglades Protection Area as defined in s.  
37 373.4592(2) must follow the state coordinated review process in  
38 subsection (4).

39 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF  
40 COMPREHENSIVE PLAN AMENDMENTS.—

41 (a) The process for amending a comprehensive plan described  
42 in this subsection shall apply to all amendments except as  
43 provided in paragraphs (2) (b)-(d) ~~(2) (b) and (c)~~ and shall be  
44 applicable statewide.

45 (4) STATE COORDINATED REVIEW PROCESS.—

46 (a) *Coordination.*—The state land planning agency shall only  
47 use the state coordinated review process described in this  
48 subsection for review of comprehensive plans and plan amendments  
49 described in paragraphs (2) (c) and (d) ~~paragraph (2) (c)~~. Each  
50 comprehensive plan or plan amendment proposed to be adopted  
51 pursuant to this subsection shall be transmitted, adopted, and  
52 reviewed in the manner prescribed in this subsection. The state  
53 land planning agency shall have responsibility for plan review,  
54 coordination, and the preparation and transmission of comments,  
55 pursuant to this subsection, to the local governing body  
56 responsible for the comprehensive plan or plan amendment.

57 (b) *Local government transmittal of proposed plan or*  
58 *amendment.*—Each local governing body proposing a plan or plan

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59 amendment specified in paragraph (2) (c) or (d) ~~(2)(e)~~ shall  
60 transmit the complete proposed comprehensive plan or plan  
61 amendment to the reviewing agencies within 10 working days after  
62 the first public hearing pursuant to subsection (11). The  
63 transmitted document shall clearly indicate on the cover sheet  
64 that this plan amendment is subject to the state coordinated  
65 review process of this subsection. The local governing body  
66 shall also transmit a copy of the complete proposed  
67 comprehensive plan or plan amendment to any other unit of local  
68 government or government agency in the state that has filed a  
69 written request with the governing body for the plan or plan  
70 amendment.

71 (c) *Reviewing agency comments.*—The agencies specified in  
72 paragraph (b) may provide comments regarding the plan or plan  
73 amendments in accordance with subparagraphs (3) (b)2.-4. However,  
74 comments on plans or plan amendments required to be reviewed  
75 under the state coordinated review process shall be sent to the  
76 state land planning agency within 30 days after receipt by the  
77 state land planning agency of the complete proposed plan or plan  
78 amendment from the local government. If the state land planning  
79 agency comments on a plan or plan amendment adopted under the  
80 state coordinated review process, it shall provide comments  
81 according to paragraph (d). Any other unit of local government  
82 or government agency specified in paragraph (b) may provide  
83 comments to the state land planning agency in accordance with  
84 subparagraphs (3) (b)2.-4. within 30 days after receipt by the  
85 state land planning agency of the complete proposed plan or plan  
86 amendment. Written comments submitted by the public shall be  
87 sent directly to the local government.

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88 (d) *State land planning agency review.*—

89 1. If the state land planning agency elects to review a  
90 plan or plan amendment specified in paragraph (2) (c) or (d)  
91 ~~(2) (e)~~, the agency shall issue a report giving its objections,  
92 recommendations, and comments regarding the proposed plan or  
93 plan amendment within 60 days after receipt of the proposed plan  
94 or plan amendment. Notwithstanding the limitation on comments in  
95 sub-subparagraph (3) (b) 4.g., the state land planning agency may  
96 make objections, recommendations, and comments in its report  
97 regarding whether the plan or plan amendment is in compliance  
98 and whether the plan or plan amendment will adversely impact  
99 important state resources and facilities. Any objection  
100 regarding an important state resource or facility that will be  
101 adversely impacted by the adopted plan or plan amendment must  
102 ~~shall~~ also state with specificity how the plan or plan amendment  
103 will adversely impact the important state resource or facility  
104 and must ~~shall~~ identify measures the local government may take  
105 to eliminate, reduce, or mitigate the adverse impacts. When a  
106 federal, state, or regional agency has implemented a permitting  
107 program, a local government is not required to duplicate or  
108 exceed that permitting program in its comprehensive plan or to  
109 implement such a permitting program in its land development  
110 regulations. This subparagraph does not prohibit the state land  
111 planning agency in conducting its review of local plans or plan  
112 amendments from making objections, recommendations, and comments  
113 regarding densities and intensities consistent with this part.  
114 In preparing its comments, the state land planning agency shall  
115 only base its considerations on written, and not oral, comments.

116 2. The state land planning agency review shall identify all

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117 written communications with the agency regarding the proposed  
118 plan amendment. The written identification must include a list  
119 of all documents received or generated by the agency, which list  
120 must be of sufficient specificity to enable the documents to be  
121 identified and copies requested, if desired, and the name of the  
122 person to be contacted to request copies of any identified  
123 document.

124 (e) Everglades Protection Area determinations.—For a plan  
125 or plan amendment adopted by the governing body of a local  
126 government whose boundaries include any portion of the  
127 Everglades Protection Area as defined in s. 373.4592(2), the  
128 Department of Environmental Protection shall determine whether  
129 the plan or plan amendment impedes the Everglades restoration  
130 and protection objectives identified in s. 373.4592. The  
131 department shall provide written notice of its determination to  
132 the local government within 30 days after receipt of the plan or  
133 plan amendment. The department shall work in coordination with  
134 the local government to identify measures the local government  
135 may take to eliminate, reduce, or mitigate any adverse impacts  
136 to Everglades restoration and protection.

137 (f)~~(e)~~ *Local government review of comments; adoption of*  
138 *plan or amendments and transmittal.*—

139 1. The local government shall review the report submitted  
140 to it by the state land planning agency, if any, and written  
141 comments submitted to it by any other person, agency, or  
142 government. The local government, upon receipt of the report  
143 from the state land planning agency, shall hold a ~~its~~ second  
144 public hearing, ~~which shall be a hearing~~ to determine whether to  
145 adopt the comprehensive plan or one or more comprehensive plan

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146 amendments pursuant to subsection (11). If the local government  
147 fails to hold the second hearing within 180 days after receipt  
148 of the state land planning agency's report, the amendments must  
149 ~~shall~~ be deemed withdrawn unless extended by agreement with  
150 notice to the state land planning agency and any affected person  
151 that provided comments on the amendment. The 180-day limitation  
152 does not apply to amendments processed pursuant to s. 380.06.

153 2. All comprehensive plan amendments adopted by the  
154 governing body, along with the supporting data and analysis,  
155 must shall be transmitted within 10 working days after the  
156 second public hearing to the state land planning agency and any  
157 other agency or local government that provided timely comments  
158 under paragraph (c). Comprehensive plan amendments adopted by  
159 the governing body of a local government whose boundaries  
160 include any portion of the Everglades Protection Area as defined  
161 in s. 373.4592(2) must be additionally transmitted within 10  
162 working days after the second public hearing to the Department  
163 of Environmental Protection.

164 3. The state land planning agency shall notify the local  
165 government of any deficiencies within 5 working days after  
166 receipt of a plan or plan amendment package. For purposes of  
167 completeness, a plan or plan amendment must shall be deemed  
168 complete if it contains a full, executed copy of the adoption  
169 ordinance or ordinances; in the case of a text amendment, a full  
170 copy of the amended language in legislative format with new  
171 words inserted in the text underlined, and words deleted  
172 stricken with hyphens; in the case of a future land use map  
173 amendment, a copy of the future land use map clearly depicting  
174 the parcel, its existing future land use designation, and its

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175 adopted designation; and a copy of any data and analyses the  
176 local government deems appropriate. A plan or plan amendment  
177 adopted by the governing body of a local government whose  
178 boundaries include any portion of the Everglades Protection Area  
179 as defined in s. 373.4592(2) may only be deemed complete if it  
180 contains a written notice from the Department of Environmental  
181 Protection pursuant to paragraph (e) that states the plan or  
182 plan amendment does not impede Everglades protection and  
183 restoration.

184 4. After the state land planning agency makes a  
185 determination of completeness regarding the adopted plan or plan  
186 amendment, the state land planning agency shall have 45 days to  
187 determine if the plan or plan amendment is in compliance with  
188 this act. Unless the plan or plan amendment is substantially  
189 changed from the one commented on, the state land planning  
190 agency's compliance determination shall be limited to objections  
191 raised in the objections, recommendations, and comments report.  
192 During the period provided for in this subparagraph, the state  
193 land planning agency shall issue, through a senior administrator  
194 or the secretary, a notice of intent to find that the plan or  
195 plan amendment is in compliance or not in compliance. The state  
196 land planning agency shall post a copy of the notice of intent  
197 on the agency's Internet website. Publication by the state land  
198 planning agency of the notice of intent on the state land  
199 planning agency's Internet site shall be prima facie evidence of  
200 compliance with the publication requirements of this  
201 subparagraph.

202 5. A plan or plan amendment adopted under the state  
203 coordinated review process shall go into effect pursuant to the

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204 state land planning agency's notice of intent. If timely  
205 challenged, an amendment does not become effective until the  
206 state land planning agency or the Administration Commission  
207 enters a final order determining the adopted amendment to be in  
208 compliance.

209 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN  
210 AMENDMENTS.—

211 (b) The state land planning agency may file a petition with  
212 the Division of Administrative Hearings pursuant to ss. 120.569  
213 and 120.57, with a copy served on the affected local government,  
214 to request a formal hearing to challenge whether the plan or  
215 plan amendment is in compliance as defined in paragraph (1)(b).  
216 The state land planning agency's petition must clearly state the  
217 reasons for the challenge. Under the expedited state review  
218 process, this petition must be filed with the division within 30  
219 days after the state land planning agency notifies the local  
220 government that the plan amendment package is complete according  
221 to subparagraph (3)(c)3. Under the state coordinated review  
222 process, this petition must be filed with the division within 45  
223 days after the state land planning agency notifies the local  
224 government that the plan amendment package is complete according  
225 to subparagraph (4)(f)3. ~~(4)(e)3.~~

226 1. The state land planning agency's challenge to plan  
227 amendments adopted under the expedited state review process  
228 shall be limited to the comments provided by the reviewing  
229 agencies pursuant to subparagraphs (3)(b)2.-4., upon a  
230 determination by the state land planning agency that an  
231 important state resource or facility will be adversely impacted  
232 by the adopted plan amendment. The state land planning agency's



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233 petition must ~~shall~~ state with specificity how the plan  
234 amendment will adversely impact the important state resource or  
235 facility. The state land planning agency may challenge a plan  
236 amendment that has substantially changed from the version on  
237 which the agencies provided comments but only upon a  
238 determination by the state land planning agency that an  
239 important state resource or facility will be adversely impacted.

240 2. If the state land planning agency issues a notice of  
241 intent to find the comprehensive plan or plan amendment not in  
242 compliance with this act, the notice of intent shall be  
243 forwarded to the Division of Administrative Hearings of the  
244 Department of Management Services, which shall conduct a  
245 proceeding under ss. 120.569 and 120.57 in the county of and  
246 convenient to the affected local jurisdiction. The parties to  
247 the proceeding shall be the state land planning agency, the  
248 affected local government, and any affected person who  
249 intervenes. A ~~No~~ new issue may not be alleged as a reason to  
250 find a plan or plan amendment not in compliance in an  
251 administrative pleading filed more than 21 days after  
252 publication of notice unless the party seeking that issue  
253 establishes good cause for not alleging the issue within that  
254 time period. Good cause does not include excusable neglect.

255 (11) PUBLIC HEARINGS.—

256 (a) The procedure for transmittal of a complete proposed  
257 comprehensive plan or plan amendment pursuant to subparagraph  
258 (3) (b) 1. and paragraph (4) (b) and for adoption of a  
259 comprehensive plan or plan amendment pursuant to subparagraphs  
260 (3) (c) 1. and (4) (f) 1. ~~(4) (e) 1.~~ shall be by affirmative vote of  
261 not less than a majority of the members of the governing body

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262 present at the hearing. The adoption of a comprehensive plan or  
263 plan amendment shall be by ordinance. For the purposes of  
264 transmitting or adopting a comprehensive plan or plan amendment,  
265 the notice requirements in chapters 125 and 166 are superseded  
266 by this subsection, except as provided in this part.

267 Section 2. Subsection (9) of section 420.5095, Florida  
268 Statutes, is amended to read:

269 420.5095 Community Workforce Housing Innovation Pilot  
270 Program.—

271 (9) Notwithstanding s. 163.3184(4)(b)-(d), any local  
272 government comprehensive plan amendment to implement a Community  
273 Workforce Housing Innovation Pilot Program project found  
274 consistent with this section shall be expedited as provided in  
275 this subsection. At least 30 days before ~~prior to~~ adopting a  
276 plan amendment under this subsection, the local government shall  
277 notify the state land planning agency of its intent to adopt  
278 such an amendment, and the notice shall include its evaluation  
279 related to site suitability and availability of facilities and  
280 services. The public notice of the hearing required by s.  
281 163.3184(11)(b)2. shall include a statement that the local  
282 government intends to use the expedited adoption process  
283 authorized by this subsection. Such amendments shall require  
284 only a ~~single public hearing before the governing board, which~~  
285 ~~shall be an~~ adoption hearing as described in s. 163.3184(4)(f)  
286 before the governing board ~~s. 163.3184(4)(e)~~. Any further  
287 proceedings shall be governed by s. 163.3184(5)-(13).

288 Section 3. This act shall take effect July 1, 2020.