

1 A bill to be entitled
2 An act relating to the Department of Community
3 Affairs; amending s. 163.3180, F.S.; revising
4 an exemption to the concurrency requirements of
5 local government comprehensive plans for
6 development that constitutes a de minimis
7 impact; amending s. 163.3184, F.S.; revising
8 the definition of the term "in compliance";
9 revising the effective date of local government
10 comprehensive plans or amendments in an area of
11 critical state concern; amending s. 163.3187,
12 F.S.; providing that certain counties may adopt
13 certain small-scale amendments to the local
14 government comprehensive plan; creating an
15 exception to the requirement that local
16 governments adopt plan amendments twice a year;
17 amending s. 163.3189, F.S.; providing an
18 exception, applicable to local governments in
19 an area of critical state concern, to
20 procedures for effectuating a comprehensive
21 plan amendment after the commission's
22 determination of noncompliance; amending s.
23 380.05, F.S.; providing for state land planning
24 agency approval or rejection of certain local
25 government land development regulations by
26 agency order; providing for state land planning
27 agency approval or rejection of certain local
28 government comprehensive plans and amendments;
29 amending s. 380.051, F.S.; deleting certain
30 rulemaking duties of the department with
31 respect to the Florida Keys area of critical

1 state concern; amending s. 380.06, F.S.;

2 deleting certain rulemaking duties of the

3 department with respect to areawide

4 developments of regional impact; requiring an

5 evaluation of statutory provisions relating to

6 evaluation and appraisal of comprehensive

7 plans; providing an effective date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Subsection (6) of section 163.3180, Florida

12 Statutes, 1996 Supplement, is amended to read:

13 163.3180 Concurrency.--

14 (6) The Legislature finds that a de minimis impact

15 ~~that, alone or in combination with other similar or lesser~~

16 ~~impacts, will not cause significant degradation of the~~

17 ~~existing level of service on a transportation facility is~~

18 consistent with this part. A de minimis impact is an impact

19 that would not affect more than 1 percent of the maximum

20 volume at the adopted level of service of the affected

21 transportation facility as determined by the local government.

22 No impact will be de minimis if it would exceed 110 percent of

23 the sum of existing volumes and the projected volumes from

24 approved projects on a transportation facility; provided

25 however, that an impact of a single family home on an existing

26 lot will constitute a de minimis impact on all roadways

27 regardless of the level of the deficiency of the roadway.

28 Local governments are encouraged to adopt methodologies to

29 encourage de minimis impacts on transportation facilities

30 within an existing urban service area. Further, no impact will

31 be de minimis if it would exceed the adopted level of service

1 standard of any affected designated hurricane evacuation
2 routes.~~one that would not affect more than 0.1 percent of the~~
3 ~~maximum volume at the adopted level-of-service standard of the~~
4 ~~affected transportation facility as determined by the local~~
5 ~~government, and that is caused by an increase in density or~~
6 ~~intensity that is less than or equal to twice the density or~~
7 ~~intensity of the existing land use or, in the case of vacant~~
8 ~~land, is a density of less than 1 dwelling unit per quarter~~
9 ~~acre or a floor area ratio of 0.1 for nonresidential uses.~~
10 ~~Local governments are encouraged to adopt methodologies to~~
11 ~~encourage de minimis impacts on transportation facilities~~
12 ~~within an existing urban service area, when those impacts will~~
13 ~~not in combination exceed a significant degradation threshold~~
14 ~~of 3 percent of the maximum volume at the adopted~~
15 ~~level-of-service standard of the affected transportation~~
16 ~~facility based on the adopted level-of-service standard.~~

17 Section 2. Paragraph (b) of subsection (1) and
18 subsection (14) of section 163.3184, Florida Statutes, 1996
19 Supplement, are amended to read:

20 163.3184 Process for adoption of comprehensive plan or
21 plan amendment.--

22 (1) DEFINITIONS.--As used in this section:

23 (b) "In compliance" means consistent with the
24 requirements of ss. 163.3177, 163.3178, and 163.3191, with the
25 state comprehensive plan, with the appropriate strategic
26 regional policy plan, and with chapter 9J-5, Florida
27 Administrative Code, where such rule is not inconsistent with
28 chapter 163, part II and with the principles for guiding
29 development in designated areas of critical state concern.

30 (14) AREAS OF CRITICAL STATE CONCERN.--No proposed
31 local government comprehensive plan or plan amendment which is

1 applicable to a designated area of critical state concern
2 shall be effective until a final order is issued finding the
3 plan or amendment to be in compliance as defined in this
4 section.~~it has been reviewed and approved as provided in s.~~
5 ~~380.05.~~

6 Section 3. Subsection (1) of section 163.3187, Florida
7 Statutes, 1996 Supplement, is amended to read:

8 163.3187 Amendment of adopted comprehensive plan.--

9 (1) Amendments to comprehensive plans adopted pursuant
10 to this part may be made not more than two times during any
11 calendar year, except:

12 (a) In the case of an emergency, comprehensive plan
13 amendments may be made more often than twice during the
14 calendar year if the additional plan amendment receives the
15 approval of all of the members of the governing body.

16 "Emergency" means any occurrence or threat thereof whether
17 accidental or natural, caused by humankind, in war or peace,
18 which results or may result in substantial injury or harm to
19 the population or substantial damage to or loss of property or
20 public funds.

21 (b) Any local government comprehensive plan amendments
22 directly related to a proposed development of regional impact,
23 including changes which have been determined to be substantial
24 deviations and including Florida Quality Developments pursuant
25 to s. 380.061, may be initiated by a local planning agency and
26 considered by the local governing body at the same time as the
27 application for development approval using the procedures
28 provided for local plan amendment in this section and
29 applicable local ordinances, without regard to statutory or
30 local ordinance limits on the frequency of consideration of
31 amendments to the local comprehensive plan. Nothing in this

1 subsection shall be deemed to require favorable consideration
2 of a plan amendment solely because it is related to a
3 development of regional impact.

4 (c) Any local government comprehensive plan amendments
5 directly related to proposed small scale development
6 activities may be approved without regard to statutory limits
7 on the frequency of consideration of amendments to the local
8 comprehensive plan. A small scale development amendment may
9 be adopted only under the following conditions:

10 1. The proposed amendment involves a use of 10 acres
11 or fewer and:

12 a. The cumulative annual effect of the acreage for all
13 small scale development amendments adopted by the local
14 government shall not exceed:

15 (I) A maximum of 120 acres in a local government that
16 contains areas specifically designated in the local
17 comprehensive plan for urban infill, urban redevelopment, or
18 downtown revitalization as defined in s. 163.3164,
19 transportation concurrency exception areas approved pursuant
20 to s. 163.3180(5), or regional activity centers and urban
21 central business districts approved pursuant to s.
22 380.06(2)(e); however, amendments under this paragraph may be
23 applied to no more than 60 acres annually of property outside
24 the designated areas listed in this sub-sub-subparagraph.

25 (II) A maximum of 80 acres in a local government that
26 does not contain any of the designated areas set forth in
27 sub-sub-subparagraph (I).

28 (III) A maximum of 120 acres in a county established
29 pursuant to Article VIII, Section 9 of the State Constitution.

30 b. The proposed amendment does not involve the same
31 property granted a change within the prior 12 months.

1 c. The proposed amendment does not involve the same
2 owner's property within 200 feet of property granted a change
3 within the prior 12 months.

4 d. The proposed amendment does not involve a text
5 change to the goals, policies, and objectives of the local
6 government's comprehensive plan, but only proposes a land use
7 change to the future land use map for a site-specific small
8 scale development activity.

9 e. The property that is the subject of the proposed
10 amendment is not located within an area of critical state
11 concern.

12 f. If the proposed amendment involves a residential
13 land use, the residential land use has a density of 10 units
14 or less per acre, except that this limitation does not apply
15 to small scale amendments described in sub-sub-subparagraph
16 a.(I) that are designated in the local comprehensive plan for
17 urban infill, urban redevelopment, or downtown revitalization
18 as defined in s. 163.3164, transportation concurrency
19 exception areas approved pursuant to s. 163.3180(5), or
20 regional activity centers and urban central business districts
21 approved pursuant to s. 380.06(2)(e).

22 2.a. A local government that proposes to consider a
23 plan amendment pursuant to this paragraph is not required to
24 comply with the procedures and public notice requirements of
25 s. 163.3184(15)(c) for such plan amendments if the local
26 government complies with the provisions in s. 125.66(4)(a) for
27 a county or in s. 166.041(3)(c) for a municipality. If a
28 request for a plan amendment under this paragraph is initiated
29 by other than the local government, public notice is required.

30 b. The local government shall send copies of the
31 notice and amendment to the state land planning agency, the

1 regional planning council, and any other person or entity
2 requesting a copy. This information shall also include a
3 statement identifying any property subject to the amendment
4 that is located within a coastal high hazard area as
5 identified in the local comprehensive plan.

6 3. Small scale development amendments adopted pursuant
7 to this paragraph require only one public hearing before the
8 governing board, which shall be an adoption hearing as
9 described in s. 163.3184(7), and are not subject to the
10 requirements of s. 163.3184(3)-(6) unless the local government
11 elects to have them subject to those requirements.

12 (d) Any comprehensive plan amendment required by a
13 compliance agreement pursuant to s. 163.3184(16) may be
14 approved without regard to statutory limits on the frequency
15 of adoption of amendments to the comprehensive plan.

16 (e) A comprehensive plan amendment for location of a
17 state correctional facility. Such an amendment may be made at
18 any time and does not count toward the limitation on the
19 frequency of plan amendments.

20 (f) Any comprehensive plan amendment that changes the
21 schedule in the capital improvements element, and any
22 amendments directly related to the schedule, may be made once
23 in a calendar year on a date different from the two times
24 provided in this subsection when necessary to coincide with
25 the adoption of the local government's budget and capital
26 improvements program.

27 Section 4. Paragraph (b) of subsection (2) of section
28 163.3189, Florida Statutes, 1996 Supplement, is amended to
29 read:

30 163.3189 Process for amendment of adopted
31 comprehensive plan.--

1 (2) A local government which has a comprehensive plan
2 that has been found to be in compliance may amend its
3 comprehensive plan as set forth in s. 163.3184, with the
4 following exceptions:

5 (b) If the Administration Commission, upon a hearing
6 pursuant to s. 163.3184, finds that the adopted plan amendment
7 is not in compliance, the commission shall specify actions
8 that would bring the plan amendment into compliance, and may
9 specify the sanctions provided in s. 163.3184(11) to which the
10 local government will be subject if it elects to make the
11 amendment effective notwithstanding the determination of
12 noncompliance. However, after the final order of the
13 commission, the local government, except in designated areas
14 of critical state concern ~~by resolution at a public meeting~~
15 ~~after public notice~~, may elect to make the amendment effective
16 by resolution at a public meeting after public notice and be
17 subject to sanctions pursuant to s. 163.3184(11). If the
18 local government enacts the remedial actions specified in the
19 commission's final order, the local government shall no longer
20 be subject to sanctions.

21 Section 5. Subsections (6) and (8) of section 380.05,
22 Florida Statutes, 1996 Supplement, are amended to read:

23 380.05 Areas of critical state concern.--

24 (6) Once ~~if~~ the state land planning agency determines
25 whether ~~finds that~~ the land development regulations or ~~and~~
26 local comprehensive plan or amendment submitted by a local
27 government is consistent ~~comply~~ with the principles for
28 guiding the development of the area specified under the rule
29 designating the area, the state land planning agency shall ~~by~~
30 ~~rule~~ approve or reject the land development regulations or
31 portions thereof by final order, and shall determine

1 compliance of the plan or amendment, or portions thereof,
 2 pursuant to s. 163.3184. The state land planning agency shall
 3 publish its final order to approve or reject land development
 4 regulations, which shall constitute final agency action, in
 5 the Florida Administrative Weekly. If the final order is
 6 challenged pursuant to s. 120.57, the state planning agency
 7 has the burden of proving the validity of the final order and
 8 plan. Such approval or rejection of the land development
 9 regulations shall be no later than 60 days after submission of
 10 the land development regulations and plan by the local
 11 government. No proposed land development regulation or local
 12 comprehensive plan within an area of critical state concern
 13 becomes effective under this subsection until the state land
 14 planning agency issues its final order or, if the final order
 15 is challenged, until the challenge to the order is resolved
 16 pursuant to chapter 120 rule approving it becomes effective.

17 (8) If any local government fails to submit land
 18 development regulations or a local comprehensive plan ~~within~~
 19 ~~180 days after the commission adopts a rule designating an~~
 20 ~~area of critical state concern, or if the regulations or plan~~
 21 or plan amendment submitted do not comply with the principles
 22 for guiding development set out in the rule designating the
 23 area of critical state concern, ~~in either case,~~ within 120
 24 days after the adoption of the rule designating an area of
 25 critical state concern, or within 120 days after the issuance
 26 of a recommended order on the compliance of the plan or plan
 27 amendment pursuant to section 163.3184, or within 120 days
 28 after the effective date of an order rejecting a proposed land
 29 development regulation, the state land planning agency shall
 30 submit to the commission recommended land development
 31 regulations and a local comprehensive plan or portions thereof

1 applicable to that local government's portion of the area of
 2 critical state concern. Within 45 days following receipt of
 3 the recommendation from the agency, the commission shall
 4 either reject the recommendation as tendered or adopt the
 5 recommendation with or without modification, and by rule
 6 establish land development regulations and a local
 7 comprehensive plan applicable to that local government's
 8 portion of the area of critical state concern. However, such
 9 rule shall not become effective prior to legislative review of
 10 an area of critical state concern pursuant to paragraph
 11 (1)(c). In the rule, the commission shall specify the extent
 12 to which its land development regulations, and plans, or plan
 13 amendments will supersede, or will be supplementary to, local
 14 land development regulations and plans. Notice of any
 15 proposed rule issued under this section shall be given to all
 16 local governments and regional planning agencies in the area
 17 of critical state concern, in addition to any other notice
 18 required under chapter 120. The land development regulations
 19 and local comprehensive plan adopted by the commission under
 20 this section may include any type of regulation and plan that
 21 could have been adopted by the local government. Any land
 22 development regulations or local comprehensive plan or plan
 23 amendments adopted by the commission under this section shall
 24 be administered by the local government as part of, or in the
 25 absence of, the local land development regulations and local
 26 comprehensive plan.

27 Section 6. Section 380.051, Florida Statutes, is
 28 amended to read:

29 380.051 Coordinated agency review; Florida Keys
 30 area.--

31

1 (1)(a) In order to facilitate the planning and
2 preparation of permit applications for projects in the Florida
3 Keys area of critical state concern, and in order to
4 coordinate the information required to issue such permits, a
5 developer may elect to request coordinated agency review under
6 this section at the time of application for a development
7 permit subject to s. 380.05.

8 (b) "Coordinated agency review" means review of the
9 proposed location, densities, intensity of use, character,
10 major design features, and environmental impacts of a proposed
11 development in the Florida Keys area of critical state concern
12 required to undergo review under s. 380.05 for the purposes of
13 considering whether these aspects of the proposed development
14 comply with the certifying agency's statutes and rules.

15 (2)(a) ~~The state land planning agency shall, in~~
16 ~~cooperation with state and regional agencies, develop by rule~~
17 ~~a coordinated agency review procedure in the Florida Keys area~~
18 ~~of critical state concern by January 1, 1987.~~ If a developer
19 chooses to seek review under this section, the developer shall
20 complete a coordinated review application and the state land
21 planning agency shall distribute copies of the application to
22 participating agencies. Each state and regional agency with
23 jurisdiction over the project shall certify, within 60 days of
24 receipt of such application, whether the project is consistent
25 with agency statutes and rules.

26 (b) The Department of Environmental Protection, the
27 Department of Health ~~and Rehabilitative Services~~, and other
28 state and regional agencies that require permits in the
29 Florida Keys area of critical state concern shall, within 180
30 days after the effective date of this act, enter into
31 interagency agreements with the state land planning agency to

1 establish, ~~by rule,~~ a set of procedures necessary for
2 coordinated agency review created pursuant to this section.
3 Such procedures shall be consistent with ~~the procedures~~
4 ~~developed pursuant to~~ paragraph (a).

5 (c) State and regional agencies shall enter into
6 intergovernmental agreements with local governments in the
7 Florida Keys area of critical state concern to coordinate
8 their permit review, including delegation of review authority
9 to local governments, where applicable, to ensure that state
10 and regional agency decisions are reached in coordination with
11 the local government decision on the local government order.

12 (3) State and regional agencies shall coordinate with
13 local governments and, when possible, federal permitting
14 agencies to standardize, to the extent possible, review
15 procedures, data requirements, and data collection
16 methodologies among all participating agencies operating in
17 the Florida Keys area of critical state concern consistent
18 with the requirements of the statutes for permitting programs
19 for each agency. ~~The state land planning agency shall, by~~
20 ~~rule, establish minimum procedures for this subsection.~~

21 Section 7. Paragraphs (a), (b), (d), and (f) of
22 subsection (25) of section 380.06, Florida Statutes, 1996
23 Supplement, are amended to read:

24 380.06 Developments of regional impact.--

25 (25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.--

26 (a) An authorized developer may submit an areawide
27 development of regional impact to be reviewed pursuant to the
28 procedures and standards set forth in this section. The
29 areawide development-of-regional-impact review shall include
30 an areawide development plan in addition to any other
31 information required under ~~by rule pursuant to~~ this section.

1 After review and approval of an areawide development of
2 regional impact under this section, all development within the
3 defined planning area shall conform to the approved areawide
4 development plan and development order. Individual
5 developments that conform to the approved areawide development
6 plan shall not be required to undergo further
7 development-of-regional-impact review, unless otherwise
8 provided in the development order. As used in this
9 subsection, the term:

10 1. "Areawide development plan" means a plan of
11 development that, at a minimum:

12 a. Encompasses a defined planning area approved
13 pursuant to this subsection that will include at least two or
14 more developments;

15 b. Maps and defines the land uses proposed, including
16 the amount of development by use and development phasing;

17 c. Integrates a capital improvements program for
18 transportation and other public facilities to ensure
19 development staging contingent on availability of facilities
20 and services;

21 d. Incorporates land development regulation,
22 covenants, and other restrictions adequate to protect
23 resources and facilities of regional and state significance;
24 and

25 e. Specifies responsibilities and identifies the
26 mechanisms for carrying out all commitments in the areawide
27 development plan and for compliance with all conditions of any
28 areawide development order.

29 2. "Developer" means any person or association of
30 persons, including a governmental agency as defined in s.
31 380.031(6), that petitions for authorization to file an

1 application for development approval for an areawide
2 development plan.

3 ~~(b) The state land planning agency shall establish by~~
4 ~~rule procedures and criteria for~~ A developer may to petition
5 for authorization to submit a proposed areawide development of
6 regional impact for a defined planning area in accordance with
7 the following requirements. ~~At a minimum, the rules shall~~
8 ~~provide for:~~

9 1. A petition ~~that~~ shall be submitted to the local
10 government, the regional planning agency, and the state land
11 planning agency.

12 2. A public hearing or joint public hearing shall be
13 held if required by paragraph (e), with appropriate notice,
14 before the affected local government.

15 3. The state land planning agency shall apply the
16 following criteria for evaluating a petition, ~~including, but~~
17 ~~not limited to:~~

18 a. Whether the developer is financially capable of
19 processing the application for development approval through
20 final approval pursuant to this section.

21 b. Whether the defined planning area and anticipated
22 development therein appear to be of a character, magnitude,
23 and location that a proposed areawide development plan would
24 be in the public interest. ~~The rules shall specify that~~ Any
25 public interest determination under this criterion is
26 preliminary and not binding on the state land planning agency,
27 regional planning agency, or local government.

28 4. The state land planning agency shall develop and
29 make available standard forms for petitions and applications
30 for development approval for use under this subsection.

31

1 (d) A general purpose local government with
2 jurisdiction over an area to be considered in an areawide
3 development of regional impact shall not have to petition
4 itself for authorization to prepare and consider an
5 application for development approval for an areawide
6 development plan. However, such a local government shall
7 initiate the preparation of an application only:

8 1. After scheduling and conducting a public hearing as
9 specified in paragraph (e); and

10 2. After conducting such hearing, finding that the
11 planning area meets the standards and criteria ~~established by~~
12 ~~the state land planning agency~~ pursuant to subparagraph (b)3.
13 for determining that an areawide development plan will be in
14 the public interest.

15 (f) Following the public hearing, the local government
16 shall issue a written order, appealable under s. 380.07, which
17 approves, approves with conditions, or denies the petition.
18 It shall approve the petitioner as the developer if it finds
19 that the petitioner and defined planning area meet the
20 standards and criteria, consistent with applicable law,
21 pursuant to subparagraph (b)3.~~established by the state land~~
22 ~~planning agency.~~

23 Section 8. The state land planning agency shall
24 evaluate statutory provisions relating to the evaluation and
25 appraisal of comprehensive plans required pursuant to section
26 163.3191, Florida Statutes, and shall consider changes to the
27 statutes, as well as to all pertinent rules associated with
28 the statutes. The evaluation shall include the local
29 government's overall character, including coastal areas and
30 areas of critical state concern, as well as the number of
31 comprehensive plan amendments. Special emphasis shall be given

1 in this overall evaluation to small governments, including
2 municipalities with a population of 10,000 or less, as
3 calculated based on the University of Florida Bureau of
4 Business Research's population estimates for the State of
5 Florida and certified as official by the Executive Office of
6 the Governor and small counties, as defined in applicable law.
7 The evaluation shall be conducted in consultation with a
8 technical committee of at least 15 members, appointed by the
9 secretary of the state land planning agency. The membership
10 shall be representative of local governments, regional
11 planning councils, the private sector, and environmental
12 organizations. On or before December 15, 1997, the state land
13 planning agency shall report to the Governor, the President of
14 the Senate, and the Speaker of the House of Representatives on
15 its recommendations for appropriate changes to the
16 requirements for evaluation and appraisal of comprehensive
17 plans in chapter 163, Florida Statutes, funding for local
18 governments, and the roles of state agencies in assisting
19 local governments.

20 Section 9. This act shall take effect upon becoming a
21 law.

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