

By Senator Clary

7-1221A-02

1                                   A bill to be entitled  
 2           An act relating to local government  
 3           comprehensive plans; amending s. 163.3184,  
 4           F.S.; revising the process for transmittal of  
 5           proposed plans and amendments; requiring the  
 6           state land planning agency to determine within  
 7           a specified time whether a proposed plan  
 8           amendment is complete; revising the process for  
 9           reviewing proposed plan amendments and  
 10          comments; revising provisions governing the  
 11          notice of intent that a plan amendment is in  
 12          compliance; providing an effective date.

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

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 16           Section 1. Subsections (3), (4), (6), (7) and (8) of  
 17 section 163.3184, Florida Statutes, are amended to read:

18           163.3184 Process for adoption of comprehensive plan or  
 19 plan amendment.--

20           (3) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN OR  
 21 AMENDMENT.--

22           (a) Each local governing body shall transmit the  
 23 complete proposed comprehensive plan or plan amendment to the  
 24 state land planning agency, the appropriate regional planning  
 25 council and water management district, the Department of  
 26 Environmental Protection, the Department of State, and the  
 27 Department of Transportation, and, in the case of municipal  
 28 plans, to the appropriate county, and in the case of county  
 29 plans, to the Fish and Wildlife Conservation Commission and  
 30 the Department of Agriculture and Consumer Services,  
 31 immediately following a public hearing pursuant to subsection

1 (15) as specified in the state land planning agency's  
2 procedural rules. The local governing body shall also transmit  
3 a copy of the complete proposed comprehensive plan or plan  
4 amendment to any other unit of local government or government  
5 agency in the state that has filed a written request with the  
6 governing body for the plan or plan amendment.

7 (b) A local governing body shall not transmit portions  
8 of a plan or plan amendment unless it has previously provided  
9 to all state agencies designated by the state land planning  
10 agency a complete copy of its adopted comprehensive plan  
11 pursuant to subsection (7) and as specified in the agency's  
12 procedural rules. In the case of comprehensive plan  
13 amendments, the local governing body shall transmit to the  
14 state land planning agency, the appropriate regional planning  
15 council and water management district, the Department of  
16 Environmental Protection, the Department of State, and the  
17 Department of Transportation, and, in the case of municipal  
18 plans, to the appropriate county, and in the case of county  
19 plans, to the Fish and Wildlife Conservation Commission and  
20 the Department of Agriculture and Consumer Services,the  
21 materials specified in the state land planning agency's  
22 procedural rules and, in cases in which the plan amendment is  
23 a result of an evaluation and appraisal report adopted  
24 pursuant to s. 163.3191, a copy of the evaluation and  
25 appraisal report. Local governing bodies shall consolidate all  
26 proposed plan amendments into a single submission for each of  
27 the two plan amendment adoption dates during the calendar year  
28 pursuant to s. 163.3187.

29 (c) A local government may adopt a proposed plan  
30 amendment previously transmitted pursuant to this subsection,  
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1 unless review is ~~requested or otherwise~~ initiated pursuant to  
2 subsection (6).

3 (d) In cases in which a ~~local government transmits~~  
4 multiple individual amendments ~~that~~ can be clearly and legally  
5 separated and distinguished for the purpose of determining  
6 whether to review the proposed amendment, and the state land  
7 planning agency elects to review several or a portion of the  
8 amendments and the local government chooses to immediately  
9 adopt the remaining amendments not reviewed, the amendments  
10 immediately adopted and any reviewed amendments that the local  
11 government subsequently adopts together constitute one  
12 amendment cycle in accordance with s. 163.3187(1).

13 (4) INTERGOVERNMENTAL REVIEW.--Within 5 days after  
14 receipt of the proposed plan amendment, the state land  
15 planning agency shall determine whether the proposed plan  
16 amendment is complete. The ~~if review of a proposed~~  
17 ~~comprehensive plan amendment is requested or otherwise~~  
18 ~~initiated pursuant to subsection (6), the state land planning~~  
19 ~~agency within 5 working days of determining that such a review~~  
20 ~~will be conducted shall transmit a copy of the proposed plan~~  
21 ~~amendment to various government agencies, as appropriate, for~~  
22 ~~response or comment, including, but not limited to, the~~  
23 ~~Department of Environmental Protection, the Department of~~  
24 ~~Transportation, the water management district, and the~~  
25 ~~regional planning council, and, in the case of municipal~~  
26 ~~plans, to the county land planning agency. These governmental~~  
27 agencies specified in paragraph (3)(a) shall provide comments  
28 to the state land planning agency within 30 days after the  
29 state land planning agency determination that receipt of the  
30 proposed plan amendment is complete. The appropriate regional  
31 planning council shall also provide its written comments to

1 the state land planning agency within 30 days after the  
2 determination by the state land planning agency that receipt  
3 of the proposed plan amendment is complete and shall specify  
4 any objections, recommendations for modifications, and  
5 comments of any other regional agencies to which the regional  
6 planning council may have referred the proposed plan  
7 amendment. Written comments submitted by the public within 30  
8 days after notice of transmittal by the local government of  
9 the proposed plan amendment will be considered as if submitted  
10 by governmental agencies. All written agency and public  
11 comments must be made part of the file maintained under  
12 subsection (2).

13 (6) STATE LAND PLANNING AGENCY REVIEW.--

14 (a) The state land planning agency shall review a  
15 proposed plan amendment upon request of a regional planning  
16 council or, ~~affected person, or local government transmitting~~  
17 ~~the plan amendment~~ if the request is received within 30 days  
18 after ~~transmittal of the proposed plan amendment~~ is determined  
19 to be complete pursuant to subsection (3). ~~The agency shall~~  
20 ~~issue a report of its objections, recommendations, and~~  
21 ~~comments regarding the proposed plan amendment.~~ A regional  
22 planning council or affected person requesting a review shall  
23 do so by submitting a written request to the agency with a  
24 notice of the request to the local government and any other  
25 person who has requested notice.

26 (b) The state land planning agency may review any  
27 proposed plan amendment regardless of whether a request for  
28 review has been made, if the agency gives notice to the local  
29 government, and any other person who has requested notice, of  
30 its intention to conduct such a review within 35 ~~30~~ days after

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1 ~~receipt of transmittal~~ of the complete proposed plan amendment  
2 ~~pursuant to subsection (3)~~.

3 (c) The state land planning agency shall establish by  
4 rule a schedule for receipt of comments from the various  
5 government agencies, as well as written public comments,  
6 pursuant to subsection (4). If the state land planning agency  
7 elects to review the amendment or the agency is required to  
8 review the amendment as specified in paragraph (a), the agency  
9 shall issue a report giving its objections, recommendations,  
10 and comments regarding the proposed amendment within 60 days  
11 after receipt of the complete proposed amendment by the state  
12 land planning agency.~~The state land planning agency shall~~  
13 ~~have 30 days to review comments from the various government~~  
14 ~~agencies along with a local government's comprehensive plan or~~  
15 ~~plan amendment. During that period, the state land planning~~  
16 ~~agency shall transmit in writing its comments to the local~~  
17 ~~government along with any objections and any recommendations~~  
18 ~~for modifications.~~ When a federal, state, or regional agency  
19 has implemented a permitting program, the state land planning  
20 agency shall not require a local government to duplicate or  
21 exceed that permitting program in its comprehensive plan or to  
22 implement such a permitting program in its land development  
23 regulations. Nothing contained herein shall prohibit the  
24 state land planning agency in conducting its review of local  
25 plans or plan amendments from making objections,  
26 recommendations, and comments or making compliance  
27 determinations regarding densities and intensities consistent  
28 with the provisions of this part. In preparing its comments,  
29 the state land planning agency shall only base its  
30 considerations on written, and not oral, comments, from any  
31 source.

1           (d) The state land planning agency review shall  
2 identify all written communications with the agency regarding  
3 the proposed plan amendment. If the state land planning agency  
4 does not issue such a review, it shall identify in writing to  
5 the local government all written communications received 30  
6 days after transmittal. The written identification must  
7 include a list of all documents received or generated by the  
8 agency, which list must be of sufficient specificity to enable  
9 the documents to be identified and copies requested, if  
10 desired, and the name of the person to be contacted to request  
11 copies of any identified document. The list of documents must  
12 be made a part of the public records of the state land  
13 planning agency.

14           (7) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF  
15 PLAN OR AMENDMENTS AND TRANSMITTAL.--

16           (a) The local government shall review the written  
17 comments submitted to it by the state land planning agency,  
18 and any other person, agency, or government. Any comments,  
19 recommendations, or objections and any reply to them shall be  
20 public documents, a part of the permanent record in the  
21 matter, and admissible in any proceeding in which the  
22 comprehensive plan or plan amendment may be at issue. The  
23 local government, upon receipt of written comments from the  
24 state land planning agency, shall have 120 days to adopt or  
25 adopt with changes the proposed comprehensive plan or s.  
26 163.3191 plan amendments. In the case of comprehensive plan  
27 amendments other than those proposed pursuant to s. 163.3191,  
28 the local government shall have 60 days to adopt the  
29 amendment, adopt the amendment with changes, or determine that  
30 it will not adopt the amendment. The adoption of the proposed  
31 plan or plan amendment or the determination not to adopt a

1 plan amendment, other than a plan amendment proposed pursuant  
2 to s. 163.3191, shall be made in the course of a public  
3 hearing pursuant to subsection (15). The local government  
4 shall transmit the complete adopted comprehensive plan or  
5 ~~adopted~~ plan amendment to the state land planning agency as  
6 specified in the agency's procedural rules within 10 working  
7 days after adoption. The local governing body shall also  
8 transmit a copy of the adopted comprehensive plan or plan  
9 amendment to the regional planning agency and to any other  
10 unit of local government or governmental agency in the state  
11 that has filed a written request with the governing body for a  
12 copy of the plan or plan amendment.

13 (b) If the adopted plan amendment is unchanged from  
14 the proposed plan amendment transmitted pursuant to subsection  
15 (3), and an affected person did not raise any objection, the  
16 state land planning agency did not review the proposed plan  
17 amendment nor did the agency raise any objections during its  
18 review pursuant to subsection (6), the local government may  
19 state in the transmittal letter that the plan amendment is  
20 unchanged and was not the subject of objections.

21 (8) NOTICE OF INTENT.--

22 (a) If the transmittal letter correctly states that  
23 the plan amendment is unchanged and was not the subject of  
24 review or objections pursuant to paragraph (7)(b), the state  
25 land planning agency has 20 days to issue a notice of intent  
26 that the plan amendment is in compliance.

27 (b)(a) Except as provided in paragraph (a) or in s.  
28 163.3187(3), the state land planning agency, upon receipt of a  
29 local government's adopted comprehensive plan or plan  
30 amendment, shall have 45 days for review and to determine if  
31 the plan or plan amendment is in compliance with this act,

1 unless the amendment is the result of a compliance agreement  
2 entered into under subsection (16), in which case the time  
3 period for review and determination shall be 30 days. If  
4 review was not conducted under subsection (6), the agency's  
5 determination must be based upon the plan amendment as  
6 adopted. If review was conducted under subsection (6), the  
7 agency's determination of compliance must be based only upon  
8 one or both of the following:

9 1. The state land planning agency's written comments  
10 to the local government pursuant to subsection (6); or

11 2. Any changes made by the local government to the  
12 comprehensive plan or plan amendment as adopted.

13 ~~(b)1. During the time period provided for in this~~  
14 ~~subsection, the state land planning agency shall issue,~~  
15 ~~through a senior administrator or the secretary, as specified~~  
16 ~~in the agency's procedural rules, a notice of intent to find~~  
17 ~~that the plan or plan amendment is in compliance or not in~~  
18 ~~compliance. A notice of intent shall be issued by publication~~  
19 ~~in the manner provided by this paragraph and by mailing a copy~~  
20 ~~to the local government and to persons who request notice.~~  
21 ~~The required advertisement shall be no less than 2 columns~~  
22 ~~wide by 10 inches long, and the headline in the advertisement~~  
23 ~~shall be in a type no smaller than 12 point. The advertisement~~  
24 ~~shall not be placed in that portion of the newspaper where~~  
25 ~~legal notices and classified advertisements appear. The~~  
26 ~~advertisement shall be published in a newspaper which meets~~  
27 ~~the size and circulation requirements set forth in paragraph~~  
28 ~~(15)(c) and which has been designated in writing by the~~  
29 ~~affected local government at the time of transmittal of the~~  
30 ~~amendment. Publication by the state land planning agency of a~~  
31 ~~notice of intent in the newspaper designated by the local~~



1 ~~government shall be prima facie evidence of compliance with~~  
2 ~~the publication requirements of this section.~~

3 ~~2. For fiscal year 2001-2002 only, the provisions of~~  
4 ~~this subparagraph shall supersede the provisions of~~  
5 ~~subparagraph 1.~~

6 (c) During the time period provided for in this  
7 subsection, the state land planning agency shall issue,  
8 through a senior administrator or the secretary, as specified  
9 in the agency's procedural rules, a notice of intent to find  
10 that the plan or plan amendment is in compliance or not in  
11 compliance. A notice of intent shall be issued by publication  
12 in the manner provided by this paragraph and by mailing a copy  
13 to the local government. The advertisement shall be placed in  
14 that portion of the newspaper where legal notices appear. The  
15 advertisement shall be published in a newspaper that meets the  
16 size and circulation requirements set forth in paragraph  
17 (15)(c) and that has been designated in writing by the  
18 affected local government at the time of transmittal of the  
19 amendment. Publication by the state land planning agency of a  
20 notice of intent in the newspaper designated by the local  
21 government shall be prima facie evidence of compliance with  
22 the publication requirements of this section. The state land  
23 planning agency shall post a copy of the notice of intent on  
24 the agency's Internet site. The agency shall, no later than  
25 the date the notice of intent is transmitted to the newspaper,  
26 send by regular mail a courtesy informational statement to  
27 persons who provide their names and addresses to the local  
28 government at the transmittal hearing or at the adoption  
29 hearing where the local government has provided the names and  
30 addresses of such persons to the department at the time of  
31 transmittal of the adopted amendment. The informational

1 statements shall include the name of the newspaper in which  
2 the notice of intent will appear, the approximate date of  
3 publication, the ordinance number of the plan or plan  
4 amendment, and a statement that affected persons have 21 days  
5 after the actual date of publication of the notice to file a  
6 petition. This subparagraph expires July 1, 2002.

7 Section 2. This act shall take effect July 1, 2002.

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10 SENATE SUMMARY

11 Revises the process for adoption of local government  
12 comprehensive plans or plan amendments.

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