

Bill No. HB 7203, 2nd Eng.

Barcode 051068

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senators Garcia and Webster moved the following **substitute for amendment to amendment** (943812):

Senate Amendment (with title amendment)

On page 15, between lines 14 and 15,

insert:

Section 6. Section 163.32465, Florida Statutes, is created to read:

163.32465 State review of local comprehensive plans in urban areas.--

(1) LEGISLATIVE FINDINGS.--

(a) The Legislature finds that local governments in this state have a wide diversity of resources, conditions, abilities, and needs. The Legislature also finds that the needs and resources of urban areas are different from those of rural areas and that different planning and growth management approaches, strategies, and techniques are required in urban areas. The state role in overseeing growth management should reflect this diversity and should vary based on local government conditions, capabilities, needs, and extent of

Barcode 051068

1 development. Thus, the Legislature recognizes and finds that
2 reduced state oversight of local comprehensive planning is
3 justified for some local governments in urban areas.

4 (b) The Legislature finds and declares that this
5 state's urban areas require a reduced level of state oversight
6 because of their high degree of urbanization and the planning
7 capabilities and resources of many of their local governments.
8 An alternative state review process that is adequate to
9 protect issues of regional or statewide importance should be
10 created for appropriate local governments in these areas.
11 Further, the Legislature finds that development, including
12 urban infill and redevelopment, should be encouraged in these
13 urban areas. The Legislature finds that an alternative process
14 for amending local comprehensive plans in these areas should
15 be established with an objective of streamlining the process
16 and recognizing local responsibility and accountability.

17 (c) The Legislature finds a pilot program will be
18 beneficial in evaluating an alternative, expedited plan
19 amendment adoption and review process. Pilot local governments
20 shall represent highly developed counties and the
21 municipalities within these counties and highly populated
22 municipalities.

23 (2) ALTERNATIVE STATE REVIEW PROCESS PILOT
24 PROGRAM.--Pinellas and Broward Counties, and the
25 municipalities within these counties, and Jacksonville, Miami,
26 Tampa, and Hialeah, shall follow an alternative state review
27 process provided in this section. Municipalities within the
28 pilot counties may elect, by super majority vote of the
29 governing body, not to participate in the pilot program.

30 (3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN
31 AMENDMENTS UNDER THE PILOT PROGRAM.--

Barcode 051068

1 (a) Plan amendments adopted by the pilot program
2 jurisdictions shall follow the alternate, expedited process in
3 subsections (4) and (5), except as set forth in paragraphs (b)
4 through (e) of this subsection.

5 (b) Amendments that qualify as small-scale development
6 amendments may continue to be adopted by the pilot program
7 jurisdictions pursuant to ss. 163.3187(1)(c) and (3).

8 (c) Plan amendments that propose a rural land
9 stewardship area pursuant to s. 163.3177(11)(d); propose an
10 optional sector plan; update a comprehensive plan based on an
11 evaluation and appraisal report; implement new statutory
12 requirements; or new plans for newly incorporated
13 municipalities are subject to state review as set forth in s.
14 163.3184.

15 (d) Pilot program jurisdictions shall be subject to
16 the frequency and timing requirements for plan amendments set
17 forth in ss. 163.3187 and 163.3191, except where otherwise
18 stated in this section.

19 (e) The mediation and expedited hearing provisions in
20 s. 163.3189(3) apply to all plan amendments adopted by the
21 pilot program jurisdictions.

22 (4) INITIAL HEARING ON COMPREHENSIVE PLAN AMENDMENT
23 FOR PILOT PROGRAM.--

24 (a) The local government shall hold its first public
25 hearing on a comprehensive plan amendment on a weekday at
26 least seven days after the day the first advertisement is
27 published pursuant to the requirements of chapters 125 or 166.
28 Upon an affirmative vote of not less than a majority of the
29 members of the governing body present at the hearing, the
30 local government shall immediately transmit the amendment or
31 amendments and appropriate supporting data and analyses to the

1 state land planning agency; the appropriate regional planning
 2 council and water management district; the Department of
 3 Environmental Protection; the Department of State; the
 4 Department of Transportation; in the case of municipal plans,
 5 to the appropriate county; the Fish and Wildlife Conservation
 6 Commission; the Department of Agriculture and Consumer
 7 Services; and in the case of amendments that include or impact
 8 the public school facilities element, the Office of
 9 Educational Facilities of the Commissioner of Education. The
 10 local governing body shall also transmit a copy of the
 11 amendments and supporting data and analyses to any other local
 12 government or governmental agency that has filed a written
 13 request with the governing body.

14 (b) The agencies and local governments specified in
 15 paragraph (a) may provide comments regarding the amendment or
 16 amendments to the local government. The regional planning
 17 council review and comment shall be limited to effects on
 18 regional resources or facilities identified in the strategic
 19 regional policy plan and extrajurisdictional impacts that
 20 would be inconsistent with the comprehensive plan of the
 21 affected local government. A regional planning council shall
 22 not review and comment on a proposed comprehensive plan
 23 amendment prepared by such council unless the plan amendment
 24 has been changed by the local government subsequent to the
 25 preparation of the plan amendment by the regional planning
 26 council. County comments on municipal comprehensive plan
 27 amendments shall be primarily in the context of the
 28 relationship and effect of the proposed plan amendments on the
 29 county plan. Municipal comments on county plan amendments
 30 shall be primarily in the context of the relationship and
 31 effect of the amendments on the municipal plan. State agency

Barcode 051068

1 comments may include technical guidance on issues of agency
 2 jurisdiction as it relates to the requirements of this part.
 3 Such comments shall clearly identify issues that, if not
 4 resolved, may result in an agency challenge to the plan
 5 amendment. For the purposes of this pilot program, agencies
 6 are encouraged to focus potential challenges on issues of
 7 regional or statewide importance. Agencies and local
 8 governments must transmit their comments to the affected local
 9 government such that they are received by the local government
 10 not later than thirty days from the date on which the agency
 11 or government received the amendment or amendments.

12 (5) ADOPTION OF COMPREHENSIVE PLAN AMENDMENT FOR PILOT
 13 AREAS.--

14 (a) The local government shall hold its second public
 15 hearing, which shall be a hearing on whether to adopt one or
 16 more comprehensive plan amendments, on a weekday at least five
 17 days after the day the second advertisement is published
 18 pursuant to the requirements of chapters 125 or 166. Adoption
 19 of comprehensive plan amendments must be by ordinance and
 20 requires an affirmative vote of a majority of the members of
 21 the governing body present at the second hearing.

22 (b) All comprehensive plan amendments adopted by the
 23 governing body along with the supporting data and analysis
 24 shall be transmitted within ten days of the second public
 25 hearing to the state land planning agency and any other agency
 26 or local government that provided timely comments under
 27 subsection 4(b).

28 (6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR
 29 PILOT PROGRAM.--

30 (a) Any "affected person" as defined in s.
 31 163.3184(1)(a) may file a petition with the Division of

Bill No. HB 7203, 2nd Eng.

Barcode 051068

1 Administrative Hearings pursuant to ss. 120.569 and 120.57,
 2 with a copy served on the affected local government, to
 3 request a formal hearing to challenge whether the amendments
 4 are "in compliance" as defined in s. 163.3184(1)(b). This
 5 petition must be filed with the Division within 30 days after
 6 the local government adopts the amendment. The state land
 7 planning may intervene in a proceeding instituted by an
 8 affected person.

9 (b) The state land planning agency may file a petition
 10 with the Division of Administrative Hearings pursuant to ss.
 11 120.569 and 120.57, with a copy served on the affected local
 12 government, to request a formal hearing. This petition must be
 13 filed with the Division within 30 days after the state land
 14 planning agency notifies the local government that the plan
 15 amendment package is complete. For purposes of this section,
 16 an amendment shall be deemed complete if it contains a full,
 17 executed copy of the adoption ordinance or ordinances; in the
 18 case of a text amendment, a full copy of the amended language
 19 in legislative format with new words inserted in the text
 20 underlined, and words to be deleted lined through with
 21 hyphens; in the case of a future land use map amendment, a
 22 copy of the future land use map clearly depicting the parcel,
 23 its existing future land use designation, and its adopted
 24 designation; and a copy of any data and analyses the local
 25 government deems appropriate. The state land planning agency
 26 shall notify the local government of any deficiencies within
 27 five working days of receipt of amendment package.

28 (c) The state land planning agency's challenge shall
 29 be limited to those issues raised in the comments provided by
 30 the reviewing agencies pursuant to subsection (4)(b). The
 31 state land planning agency may challenge a plan amendment that

1 has substantially changed from the version on which the
 2 agencies provided comments. For the purposes of this pilot
 3 program, the Legislature strongly encourages the state land
 4 planning agency to focus any challenge on issues of regional
 5 or statewide importance.

6 (d) An administrative law judge shall hold a hearing
 7 in the affected local jurisdiction. The local government's
 8 determination that the amendment is "in compliance" is
 9 presumed to be correct and shall be sustained unless it is
 10 shown by a preponderance of the evidence that the amendment is
 11 not "in compliance."

12 (e) If the administrative law judge recommends that
 13 the amendment be found not in compliance, the judge shall
 14 submit the recommended order to the Administration Commission
 15 for final agency action. The Administration Commission shall
 16 enter a final order within 45 days after its receipt of the
 17 recommended order.

18 (f) If the administrative law judge recommends that
 19 the amendment be found in compliance, the judge shall submit
 20 the recommended order to the state land planning agency.

21 1. If the state land planning agency determines that
 22 the plan amendment should be found not in compliance, the
 23 agency shall refer, within 30 days of receipt of the
 24 recommended order, the recommended order and its determination
 25 to the Administration Commission for final agency action. If
 26 the commission determines that the amendment is not in
 27 compliance, it may sanction the local government as set forth
 28 in s. 163.3184(11).

29 2. If the state land planning agency determines that
 30 the plan amendment should be found in compliance, the agency
 31 shall enter its final order not later than 30 days from

1 receipt of the recommended order.

2 (g) An amendment adopted under the expedited
3 provisions of this section shall not become effective until 31
4 days after adoption. If timely challenged, an amendment shall
5 not become effective until the state land planning agency or
6 the Administration Commission enters a final order determining
7 the adopted amendment to be in compliance.

8 (h) Parties to a proceeding under this section may
9 enter into compliance agreements using the process in s.
10 163.3184(16). Any remedial amendment adopted pursuant to a
11 settlement agreement shall be provided to the agencies and
12 governments listed in paragraph (4)(a).

13 (7) APPLICABILITY OF PILOT PROGRAM IN CERTAIN LOCAL
14 GOVERNMENTS.--Local governments and specific areas that have
15 been designated for alternate review process pursuant to ss.
16 163.3246 and 163.3184(17) and (18) are not subject to this
17 section.

18 (8) RULEMAKING AUTHORITY FOR PILOT PROGRAM.--Agencies
19 shall not promulgate rules to implement this pilot program.

20 (9) REPORT.--The Office of Program Policy Analysis and
21 Government Accountability shall submit to the Governor, the
22 President of the Senate, and the Speaker of the House of
23 Representatives by December 1, 2008, a report and
24 recommendations for implementing a statewide program that
25 addresses the legislative findings in subsection (1) in areas
26 that meet urban criteria. The Office of Program Policy
27 Analysis and Government Accountability in consultation with
28 the state land planning agency shall develop the report and
29 recommendations with input from other state and regional
30 agencies, local governments and interest groups. Additionally,
31 the office shall review local and state actions and

Barcode 051068

1 correspondence relating to the pilot program to identify
2 issues of process and substance in recommending changes to the
3 pilot program. At a minimum, the report and recommendations
4 shall include the following:

5 (a) Identification of local governments beyond those
6 participating in the pilot program that should be subject to
7 the alternative expedited state review process. The report may
8 recommend that pilot program local governments may no longer
9 be appropriate for such alternative review process.

10 (b) Changes to the alternative expedited state review
11 process for local comprehensive plan amendments identified in
12 the pilot program.

13 (c) Criteria for determining issues of regional or
14 statewide importance that are to be protected in the
15 alternative state review process.

16 (d) In preparing the report and recommendations, the
17 Office of Program Policy Analysis and Government
18 Accountability shall consult with the state land planning
19 agency, the Department of Transportation, the Department of
20 Environmental Protection, and the regional planning agencies
21 in identifying highly developed local governments to
22 participate in the alternative expedited state review process.
23 The Office of Program Policy Analysis and Governmental
24 Accountability shall also solicit citizen input in the
25 potentially affected areas and consult with the affected local
26 governments, and stakeholder groups.

27 Section 7. There is established four full-time
28 equivalent planning positions and appropriated rate in the
29 amount of \$220,000 and salary budget authority in the amount
30 of \$326,620 from the Grants and Donations Trust Fund in the
31 Division of Community Planning for the purposes of providing

Bill No. HB 7203, 2nd Eng.

Barcode 051068

1 technical assistance and advice to state and local governments
 2 in their ability to respond to growth-related issues, and to
 3 ensure compliance with chapter 163 comprehensive planning
 4 issues.

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 6 (Redesignate subsequent sections.)
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 9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 On page 16, line 28, after the semicolon,
 12
 13 insert:
 14 creating s. 163.32465, F.S.; providing for a
 15 pilot program to provide a plan review process
 16 for certain densely developed areas; providing
 17 legislative findings; providing for exempting
 18 certain local governments from compliance
 19 review by the state land planning agency;
 20 authorizing certain municipalities to not
 21 participate in the program; providing
 22 procedures and requirements for adopting
 23 comprehensive plan amendments in such areas;
 24 requiring public hearings; providing hearing
 25 requirements; providing requirements for local
 26 government transmittal of proposed plan
 27 amendments; providing for intergovernmental
 28 review; providing for regional, county, and
 29 municipal review; providing requirements for
 30 local government review of certain comments;
 31 providing requirements for adoption and

Bill No. HB 7203, 2nd Eng.

Barcode 051068

1 transmittal of plan amendments; providing
2 procedures and requirements for challenges to
3 compliance of adopted plan amendments;
4 providing for administrative hearings;
5 providing for applicability of program
6 provisions; requiring the Office of Program
7 Policy Analysis and Governmental Accountability
8 to evaluate the pilot program and prepare and
9 submit a report to the Governor and
10 Legislature; providing report requirements;
11 establishing four full-time equivalent planning
12 positions; providing an appropriation;

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