

Amendment No.

CHAMBER ACTION

Senate

House



1 Representatives Cannon and Kravitz offered the following:

2

3 **Amendment**

4 Remove lines 857-1081 and insert:

5 163.32465 Pilot program for alternative state review

6 process.--

7 (1) LEGISLATIVE FINDINGS.--

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

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17 Legislature recognizes and finds that reduced state oversight of  
18 local comprehensive planning is justified for some local  
19 governments in urban areas.

20 (b) The Legislature finds and declares that this state's  
21 urban areas require a reduced level of state oversight because  
22 of their high degree of urbanization and the planning  
23 capabilities and resources of many of their local governments.  
24 An alternative state review process that is adequate to protect  
25 significant state and regional interests should be created for  
26 appropriate local governments in these areas. Further, the  
27 Legislature finds that development, including urban infill and  
28 redevelopment, should be encouraged in these urban areas. The  
29 Legislature finds that an alternative process for amending local  
30 comprehensive plans in these areas should be established.

31 (2) ALTERNATIVE STATE REVIEW PROCESS PILOT  
32 PROGRAM.--Pinellas and Broward Counties, as examples of highly  
33 developed counties, and the municipalities within these  
34 counties, and Jacksonville, Miami, Tampa, Hialeah, and  
35 Tallahassee, as examples of highly populated municipalities,  
36 with processes in place to allow for coordination of planning  
37 activities with local oversight are exempt from compliance  
38 reviews by the state land planning agency. Municipalities within  
39 exempt counties may elect, by supermajority vote of the  
40 governing body, not to participate in the pilot program.

41 (3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS  
42 FOR EXEMPT COUNTIES AND MUNICIPALITIES.--

43 (a) Plan amendments proposed and adopted under this  
44 section shall follow the procedures of this section and are not  
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45 subject to state land planning agency review pursuant to ss.  
46 163.3184 and 163.3187, unless otherwise provided in this  
47 section.

48 (b) Small scale amendments shall be adopted pursuant to s.  
49 163.3187.

50 (c) Plan amendments that propose a rural land stewardship  
51 area pursuant to s. 163.3177(11) (d), update a comprehensive plan  
52 based on an evaluation and appraisal report, or are the initial  
53 implementation of new statutory requirements that require  
54 specific comprehensive plan amendments shall be reviewed  
55 pursuant to s. 163.3184.

56 (4) DEFINITIONS.--The definitions of s. 163.3184(1) apply  
57 for purposes of this section.

58 (5) PUBLIC HEARINGS.--

59 (a) The procedure for transmittal of a complete proposed  
60 comprehensive plan amendment pursuant to subsection (6) and for  
61 adoption of a comprehensive plan amendment pursuant to  
62 subsection (9) shall be by affirmative vote of at least a  
63 majority of the members of the governing body present at the  
64 hearing. The adoption of a comprehensive plan amendment shall be  
65 by ordinance. For the purposes of transmitting or adopting a  
66 comprehensive plan or plan amendment, the notice requirements in  
67 chapters 125 and 166 are superseded by this subsection, except  
68 as provided in this part.

69 (b) The local governing body shall hold at least two  
70 advertised public hearings on a proposed comprehensive plan  
71 amendment as follows:

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72        1. The first public hearing shall be held at the  
73 transmittal stage pursuant to subsection (6). The hearing shall  
74 be held on a weekday at least 7 days after the day the first  
75 advertisement is published.

76        2. The second public hearing shall be held at the adoption  
77 stage pursuant to subsection (9). The hearing shall be held on a  
78 weekday at least 5 days after the day the second advertisement  
79 is published.

80        (c) The local government shall provide a sign-in form at  
81 each hearing for persons to provide their names and mailing  
82 addresses. The local government shall add to the sign-in form  
83 the name and address of any person or governmental agency that  
84 submits written comments concerning the proposed plan amendment  
85 during the time period between the commencement of the  
86 transmittal hearing and the end of the adoption hearing.

87        (d) If a proposed comprehensive plan amendment changes the  
88 actual list of permitted, conditional, or prohibited uses within  
89 a future land use category or changes the actual future land use  
90 map designation of any parcel of land, the required  
91 advertisements shall be in the format prescribed by s.  
92 125.66(4)(b)2. for a county or by s. 166.041(3)(c)2.b. for a  
93 municipality.

94        (6) LOCAL GOVERNMENT TRANSMITTAL OF PROPOSED PLAN  
95 AMENDMENT.--Each local governing body shall transmit a complete  
96 proposed comprehensive plan amendment to the state land planning  
97 agency; the appropriate regional planning council and water  
98 management district; the Department of Environmental Protection;  
99 the Department of State; the Department of Transportation; in  
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100 the case of municipal plans, to the appropriate county; and, in  
101 the case of county plans, to the Fish and Wildlife Conservation  
102 Commission and the Department of Agriculture and Consumer  
103 Services immediately after a public hearing pursuant to  
104 subsection (5) as specified in the state land planning agency's  
105 procedural rules. If the plan amendment includes or impacts the  
106 public school facilities element pursuant to s. 163.3177(12),  
107 the local government shall submit a copy to the Office of  
108 Educational Facilities of the Commissioner of Education for  
109 review and comment. The local governing body shall also transmit  
110 a copy of the complete proposed comprehensive plan amendment to  
111 any other unit of local government or government agency in the  
112 state that has filed a written request with the governing body  
113 for a copy of the plan amendment. Local governing bodies shall  
114 consolidate all proposed plan amendments into a single  
115 submission for each of the two plan amendment adoption dates  
116 during the calendar year pursuant to s. 163.3187.

117 (7) INTERGOVERNMENTAL REVIEW.--The governmental agencies  
118 specified in subsection (6) may provide comments to the local  
119 government. State agency comments may include technical guidance  
120 on issues of agency jurisdiction as it relates to the  
121 requirements of this act. Such comments shall clearly identify  
122 issues of statewide importance that, if not resolved, may result  
123 in an agency challenge to the amendment. Comments, if provided,  
124 shall be submitted within 30 days after receipt of the proposed  
125 plan amendment.

126 (8) REGIONAL, COUNTY, AND MUNICIPAL REVIEW.--The review of  
127 the regional planning council pursuant to subsection (7) shall

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128 be limited to effects on regional resources or facilities  
129 identified in the strategic regional policy plan and  
130 extrajurisdictional impacts that would be inconsistent with the  
131 comprehensive plan of the affected local government. A regional  
132 planning council shall not review and comment on a proposed  
133 comprehensive plan amendment prepared by such council. The  
134 review by the county land planning agency pursuant to subsection  
135 (7) shall be primarily in the context of the relationship and  
136 effect of the proposed plan amendment on any county  
137 comprehensive plan element. Any review by municipalities must be  
138 primarily in the context of the relationship and effect on the  
139 municipal plan.

140 (9) LOCAL GOVERNMENT REVIEW OF COMMENTS; ADOPTION OF PLAN  
141 AMENDMENTS AND TRANSMITTAL.--

142 (a) The local government shall review any submitted  
143 written comments and testimony provided by any person or  
144 governmental agency. Any comments or recommendations and any  
145 reply to comments or recommendations are public documents, a  
146 part of the permanent record in the matter, and admissible in  
147 any proceeding in which the comprehensive plan amendment may be  
148 at issue. The adoption of the proposed plan amendment or the  
149 determination not to adopt a plan amendment, other than a plan  
150 amendment proposed pursuant to s. 163.3191, shall be made in the  
151 course of a public hearing pursuant to subsection (5). The local  
152 government shall transmit the complete adopted comprehensive  
153 plan amendment, including the names and addresses of persons  
154 compiled pursuant to paragraph (5)(c), to the state land  
155 planning agency within 10 working days after the amendment is

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156 | adopted. The local governing body shall also transmit a copy of  
157 | the adopted comprehensive plan amendment to the regional  
158 | planning agency and to any other unit of local government or  
159 | governmental agency in the state that has filed a written  
160 | request with the governing body for a copy of the plan  
161 | amendment.

162 | (b) If the adopted plan amendment is unchanged from the  
163 | proposed plan amendment transmitted pursuant to subsection (6),  
164 | the local government may state in the transmittal letter that  
165 | the plan amendment is unchanged.

166 | (10) CHALLENGES TO THE COMPLIANCE OF AN ADOPTED PLAN  
167 | AMENDMENT.--

168 | (a) Any affected person as defined by s. 163.3184(1)(a),  
169 | the state land planning agency, the Department of Environmental  
170 | Protection, or the Department of Transportation may file a  
171 | petition with the Division of Administrative Hearings pursuant  
172 | to ss. 120.569 and 120.57 to request a hearing to challenge the  
173 | compliance of an amendment with this section within 30 days  
174 | after the local government adopts the amendment and shall serve  
175 | a copy of the petition on the local government. The state land  
176 | planning agency may intervene in any proceeding initiated  
177 | pursuant to this subsection. The state land planning agency, the  
178 | Department of Environmental Protection, and the Department of  
179 | Transportation are encouraged to focus any challenges on issues  
180 | of statewide importance. Any challenge by these state agencies  
181 | shall be limited to those issues raised in comments provided to  
182 | the local government during the transmittal review pursuant to  
183 | subsection (7).

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184       (b) An administrative law judge shall hold a hearing in  
185 the affected jurisdiction not less than 30 days nor more than 60  
186 days after a petition is filed and an administrative law judge  
187 is assigned. The parties to a hearing held pursuant to this  
188 subsection shall be the petitioner, the local government, and  
189 any intervenor. In the proceeding, the local government's  
190 determination that the amendment is in compliance is presumed to  
191 be correct. The local government's determination shall be  
192 sustained unless it is shown by a preponderance of the evidence  
193 that the amendment is not in compliance with the requirements of  
194 this section.

195       (c)1. If the administrative law judge recommends that the  
196 amendment be found to be not in compliance, the administrative  
197 law judge shall submit the recommended order to the  
198 Administration Commission for final agency action. The  
199 Administration Commission shall enter a final order within 45  
200 days after its receipt of the recommended order.

201       2. If the administrative law judge recommends that the  
202 amendment be found to be in compliance, the administrative law  
203 judge shall submit the recommended order to the state land  
204 planning agency for final agency action. If the state land  
205 planning agency determines that the plan amendment is not in  
206 compliance, the agency shall submit, within 30 days after  
207 receiving a recommended order, the recommended order to the  
208 Administration Commission for final agency action. If the state  
209 land planning agency determines that the plan amendment is in  
210 compliance, the agency shall enter a final order within 30 days  
211 after its receipt of the recommended order.

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212 (d) An amendment shall not become effective until 31 days  
213 after adoption. If challenged within 30 days after adoption, an  
214 amendment shall not become effective until the state land  
215 planning agency or the Administration Commission, respectively,  
216 issues a final order determining the adopted amendment is in  
217 compliance.

218 (11) APPLICABILITY.--

219 (a) This section does not supersede the provisions of s.  
220 163.3187(6).

221 (b) Local governments and specific areas that have been  
222 designated for alternate review process pursuant to ss. 163.3246  
223 and 163.3184(17) and (18) are not subject to this section.

224 (12) ASSISTANCE.--A local government may seek technical  
225 assistance from the state land planning agency on planning  
226 issues relating to its comprehensive plan regardless of its  
227 status in this program.

228 (13) RULEMAKING AUTHORITY.--No rulemaking authority is  
229 expressly granted pursuant to this pilot program.

230 (14) REPORTS.--The Office of Program Policy Analysis and  
231 Government Accountability shall submit to the Governor, the  
232 President of the Senate, and the Speaker of the House of  
233 Representatives by December 1, 2008, a report and  
234 recommendations for implementing a statewide program that  
235 addresses the legislative findings in subsection (1) in areas  
236 that meet urban criteria. The Office of Program Policy Analysis  
237 and Government Accountability shall consult the state land  
238 planning agency and other state agencies in preparing the report

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239 and recommendations. At a minimum, the report and  
240 recommendations shall include the following:

241 (a) Identification of local governments beyond those  
242 participating in the pilot program that should be subject to the  
243 alternative expedited state review process. The report may  
244 recommend that pilot program local governments may no longer be  
245 appropriate for such alternative review process.

246 (b) Changes to the alternative expedited state review  
247 process for local comprehensive plan amendments identified in  
248 the pilot program.

249 (c) Criteria for determining significant state and  
250 regional interests that are to be protected in the alternative  
251 state review process.

252 (d) In preparing the report and recommendations, the  
253 Office of Program Policy Analysis and Government Accountability  
254 shall consult with the state land planning agency, the  
255 Department of Transportation, the Department of Environmental  
256 Protection, and the regional planning agencies in identifying  
257 highly developed local governments to participate in the  
258 alternative expedited state review process. The Office of  
259 Program Policy Analysis and Governmental Accountability shall  
260 also solicit citizen input in the potentially affected areas and  
261 consult with the affected local governments, and stakeholder  
262 groups.