954204

578-01996C-09

Proposed Committee Substitute by the Committee on Community Affairs

A bill to be entitled

An act relating to growth management; providing a short title; amending s. 163.3164, F.S.; providing a definition for the term "dense urban land area"; amending s. 163.3177, F.S.; extending dates relating to requirements for adopting amendments to the capital improvements element of a local comprehensive plan; deleting a penalty for local governments that fail to adopt a public school facilities element and interlocal agreement; amending s. 163.3180, F.S.; revising concurrency requirements; providing legislative findings relating to transportation concurrency exception areas; providing for the applicability of transportation concurrency exception areas; deleting certain requirements for transportation concurrency exception areas; amending s. 163.3184, F.S.; clarifying the definition of the term "in compliance"; conforming cross-references; amending s. 163.3187, F.S.; limiting the adoption of certain plan amendments to once per calendar year; amending s. 163.3246, F.S.; conforming a cross-reference; amending s. 163.32465, F.S.; revising provisions relating to the state review of comprehensive plans; providing for additional types of amendments to which the alternate state review applies; requiring that agencies submit comments within a specified period after the state land

954204

578-01996C-09

planning agency notifies the local government that the plan amendment package is complete; requiring that the local government adopt a plan amendment within a specified period after comments are received; requiring that the state land planning agency adopt rules; deleting provisions relating to reporting requirements for the Office of Program Policy Analysis and Government Accountability; amending s. 380.06, F.S.; providing exemptions for dense urban land areas from the development-of-regional-impact program; amending s. 163.31801, F.S.; revising provisions relating to impact fees; providing that notice is not required if an impact fee is decreased, suspended, or eliminated; providing an effective date.

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

Section 1. This act may be cited as the "Community Renewal Act."

Section 2. Subsections (5) through (33) of section 163.3164, Florida Statutes, are redesignated as subsections (6) through (34), respectively, and a new subsection (5) is added to that section, to read:

163.3164 Local Government Comprehensive Planning and Land Development Regulation Act; definitions.—As used in this act:

(5) "Dense urban land area" means a local government having an average of at least 1,000 people per square mile of land area according to the most recent land area data from the decennial census conducted by the Bureau of the Census of the United

954204

578-01996C-09

States Department of Commerce and the latest available population estimates from the Office of Economic and Demographic Research, or a county, including the municipalities located therein, which has a population of at least 1 million. A local government that has had an annexation, contraction, or new incorporation since the last biennial census may not use land estimates from the census but must provide the state land planning agency with the verifiable land area data as defined by rules adopted by the state land planning agency. Such rules must include certification from the Office of Economic and Demographic Research which demonstrates that the new jurisdictional boundaries have been properly recorded in accordance with ss. 171.091 and 186.901. The state land planning agency shall annually publish a notice identifying the local governments that qualify under this definition in the Florida Administrative Weekly.

Section 3. Paragraph (b) of subsection (3) and paragraphs (j) and (k) of subsection (12) of section 163.3177, Florida Statutes, are amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(3)

(b)1. The capital improvements element must be reviewed on an annual basis and modified as necessary in accordance with s. 163.3187 or s. 163.3189 in order to maintain a financially feasible 5-year schedule of capital improvements. Corrections and modifications concerning costs; revenue sources; or acceptance of facilities pursuant to dedications which are consistent with the plan may be accomplished by ordinance and

shall not be deemed to be amendments to the local comprehensive plan. A copy of the ordinance shall be transmitted to the state land planning agency. An amendment to the comprehensive plan is required to update the schedule on an annual basis or to eliminate, defer, or delay the construction for any facility listed in the 5-year schedule. All public facilities must be consistent with the capital improvements element. Amendments to implement this section must be adopted ~~and transmitted~~ no later than December 1, 2011, and transmitted to the state land planning agency ~~December 1, 2008~~. Thereafter, a local government may not amend its future land use map, except for plan amendments to meet new requirements under this part and emergency amendments pursuant to s. 163.3187(1)(a), after December 1, 2011 ~~December 1, 2008~~, and every year thereafter, unless and until the local government has adopted the annual update and it has been transmitted to the state land planning agency.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

(12) A public school facilities element adopted to implement a school concurrency program shall meet the requirements of this subsection. Each county and each municipality within the county, unless exempt or subject to a waiver, must adopt a public school facilities element that is consistent with those adopted by the other local governments within the county and enter the interlocal agreement pursuant to

s. 163.31777.

~~(j) Failure to adopt the public school facilities element, to enter into an approved interlocal agreement as required by subparagraph (6)(h)2. and s. 163.31777, or to amend the comprehensive plan as necessary to implement school concurrency, according to the phased schedule, shall result in a local government being prohibited from adopting amendments to the comprehensive plan which increase residential density until the necessary amendments have been adopted and transmitted to the state land planning agency.~~

(j)~~(k)~~ The state land planning agency may issue ~~the school board~~ a notice to the school board to show cause why sanctions should not be enforced for failure to enter into an approved interlocal agreement as required by s. 163.31777 or for failure to implement ~~the provisions of~~ this act relating to public school concurrency. The school board may be subject to sanctions imposed by the Administration Commission directing the Department of Education to withhold from the district school board an equivalent amount of funds for school construction available pursuant to ss. 1013.65, 1013.68, 1013.70, and 1013.72.

Section 4. Paragraph (c) of subsection (4) and subsections (5) and (10) of section 163.3180, Florida Statutes, are amended to read:

163.3180 Concurrency.—

(4)

(c) The concurrency requirement, except as it relates to transportation facilities and public schools, as implemented in local government comprehensive plans, may be waived by a local

954204

578-01996C-09

government for urban infill and redevelopment areas designated pursuant to s. 163.2517 if such a waiver does not endanger public health or safety as defined by the local government in its local government comprehensive plan. The waiver shall be adopted as a plan amendment pursuant to the process set forth in s. 163.3187(4)(a) ~~s. 163.3187(3)(a)~~. A local government may grant a concurrency exception pursuant to subsection (5) for transportation facilities located within these urban infill and redevelopment areas.

(5)

(a) *Countervailing planning and public policy goals.*—The Legislature finds that under limited circumstances ~~dealing with transportation facilities,~~ countervailing planning and public policy goals may come into conflict with the requirement that adequate public transportation facilities and services be available concurrent with the impacts of such development. The Legislature further finds that ~~often~~ the unintended result of the concurrency requirement for transportation facilities is often the discouragement of urban infill development and redevelopment. Such unintended results directly conflict with the goals and policies of the state comprehensive plan and the intent of this part. The Legislature also finds that in urban centers transportation cannot be effectively managed and mobility cannot be improved solely through the expansion of roadway capacity, that the expansion of roadway capacity is not always physically or financially possible, and that a range of transportation alternatives are essential to satisfy mobility needs, reduce congestion, and achieve healthy, vibrant centers. ~~Therefore, exceptions from the concurrency requirement for~~

~~transportation facilities may be granted as provided by this subsection~~.

(b) *Geographic applicability of transportation concurrency exception areas.*—

1. Transportation concurrency exception areas are created for local governments that qualify as dense urban land area as defined in s. 163.3164(5). A local government must adopt into its comprehensive plan land use and transportation strategies to support and fund mobility within the designated exception area, including alternative modes of transportation, within 2 years after being designated as a dense urban land area.

2. Local governments that do not qualify as dense urban land area as defined in s. 163.3164(5) ~~A local government~~ may grant an exception from the concurrency requirement for transportation facilities if the proposed development is otherwise consistent with the adopted local government comprehensive plan and is a project that promotes public transportation or is located within an area designated in the comprehensive plan for:

a.~~1.~~ Urban infill development;

b.~~2.~~ Urban redevelopment;

c.~~3.~~ Downtown revitalization;

d.~~4.~~ Urban infill and redevelopment under s. 163.2517; or

e.~~5.~~ An urban service area specifically designated as a transportation concurrency exception area which includes lands appropriate for compact, contiguous urban development, which does not exceed the amount of land needed to accommodate the projected population growth at densities consistent with the adopted comprehensive plan within the 10-year planning period,

and which is served or is planned to be served with public facilities and services as provided by the capital improvements element.

(c) *Projects having special part-time demand.*—The Legislature also finds that developments located within urban infill, urban redevelopment, existing urban service, or downtown revitalization areas or areas designated as urban infill and redevelopment areas under s. 163.2517, which pose only special part-time demands on the transportation system, are exempt ~~should be excepted~~ from the concurrency requirement for transportation facilities. A special part-time demand is one that does not have more than 200 scheduled events during any calendar year and does not affect the 100 highest traffic volume hours.

(d) *Long-term strategies within transportation concurrency exception areas.*—Except for transportation concurrency exception areas established pursuant to subparagraph (b)1., the following requirements apply: ~~A local government shall establish guidelines in the comprehensive plan for granting the exceptions authorized in paragraphs (b) and (c) and subsections (7) and (15) which must be consistent with and support a comprehensive strategy adopted in the plan to promote the purpose of the exceptions.~~

1.~~(c)~~ The local government shall both adopt into the comprehensive plan and implement long-term strategies to support and fund mobility within the designated exception area, including alternative modes of transportation. The plan amendment must also demonstrate how strategies will support the purpose of the exception and how mobility within the designated

954204

578-01996C-09

exception area will be provided.

2. ~~In addition,~~ The strategies must address urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization. The comprehensive plan amendment designating the concurrency exception area must be accompanied by data and analysis justifying the size of the area.

(e) ~~(f)~~ *Strategic Intermodal System.*—Before designating ~~Prior to the designation of~~ a concurrency exception area pursuant to subparagraph (b)2., the state land planning agency and the Department of Transportation shall be consulted by the local government to assess the impact that the proposed exception area is expected to have on the adopted level-of-service standards established for Strategic Intermodal System facilities, ~~as defined in s. 339.64,~~ and roadway facilities funded in accordance with s. 339.2819 and to provide for the mitigation of impacts. Further, the local government shall provide for the mitigation of~~, in consultation with the state land planning agency and the Department of Transportation, develop a plan to mitigate any~~ impacts to the Strategic Intermodal System, including, if appropriate, access management, parallel reliever roads, transportation demand management, and other measures ~~the development of a long-term concurrency management system pursuant to subsection (9) and s. 163.3177(3)(d). The exceptions may be available only within the specific geographic area of the jurisdiction designated in the plan. Pursuant to s. 163.3184, any affected person may challenge a plan amendment establishing these guidelines and the areas~~

~~within which an exception could be granted.~~

~~(g) Transportation concurrency exception areas existing prior to July 1, 2005, must, at a minimum, meet the provisions of this section by July 1, 2006, or at the time of the comprehensive plan update pursuant to the evaluation and appraisal report, whichever occurs last.~~

(10) With regard to roadway facilities on the Strategic Intermodal System designated in accordance with s. 339.63 ~~ss. 339.61, 339.62, 339.63, and 339.64, the Florida Intrastate Highway System as defined in s. 338.001, and roadway facilities funded in accordance with s. 339.2819~~, local governments shall adopt the level-of-service standard established by the Department of Transportation by rule. However, if the Office of Tourism, Trade, and Economic Development concurs in writing with the local government that the proposed development is for a qualified job creation project under s. 288.0656 or s. 403.973, the affected local government, after consulting with the Department of Transportation, may allow for a waiver of transportation concurrency for the project. For all other roads on the State Highway System, local governments shall establish an adequate level-of-service standard that need not be consistent with any level-of-service standard established by the Department of Transportation. In establishing adequate level-of-service standards for any arterial roads, or collector roads as appropriate, which traverse multiple jurisdictions, local governments shall consider compatibility with the roadway facility's adopted level-of-service standards in adjacent jurisdictions. Each local government within a county shall use a professionally accepted methodology for measuring impacts on

transportation facilities for the purposes of implementing its concurrency management system. Counties are encouraged to coordinate with adjacent counties, and local governments within a county are encouraged to coordinate, for the purpose of using common methodologies for measuring impacts on transportation facilities for the purpose of implementing their concurrency management systems.

Section 5. Paragraph (b) of subsection (1), paragraph (b) of subsection (8), and subsections (17) and (18) of section 163.3184, Florida Statutes, are amended to read:

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

(1) DEFINITIONS.—As used in this section, the term:

(b) "In compliance" means consistent with the requirements of ss. 163.3177, ~~when a local government adopts an educational facilities element,~~ 163.3178, 163.3180, 163.3191, and 163.3245, with the state comprehensive plan, with the appropriate strategic regional policy plan, and with chapter 9J-5, Florida Administrative Code, where such rule is not inconsistent with this part and with the principles for guiding development in designated areas of critical state concern and with part III of chapter 369, where applicable.

(8) NOTICE OF INTENT.—

(b) Except as provided in paragraph (a) or in s. 163.3187(4) ~~s. 163.3187(3)~~, the state land planning agency, upon receipt of a local government's complete adopted comprehensive plan or plan amendment, shall have 45 days for review and to determine if the plan or plan amendment is in compliance with this act, unless the amendment is the result of a compliance

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

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

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

(17) COMMUNITY VISION AND URBAN BOUNDARY PLAN AMENDMENTS.—A local government that has adopted a community vision and urban service boundary under s. 163.3177(13) and (14) may adopt a plan amendment related to map amendments solely to property within an urban service boundary in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(4)(a) ~~s. 163.3187(3)(a~~) to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or

objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

(18) URBAN INFILL AND REDEVELOPMENT PLAN AMENDMENTS.—A municipality that has a designated urban infill and redevelopment area under s. 163.2517 may adopt a plan amendment related to map amendments solely to property within a designated urban infill and redevelopment area in the manner described in subsections (1), (2), (7), (14), (15), and (16) and s. 163.3187(1)(c)1.d. and e., 2., and 3., such that state and regional agency review is eliminated. The department may not issue an objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by paragraph (1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(4)(a) ~~s. 163.3187(3)(a)~~ to challenge the compliance of an adopted plan amendment. This subsection does not apply to any amendment within an area of critical state concern, to any amendment that increases residential densities allowable in high-hazard coastal areas as defined in s. 163.3178(2)(h), or to a text change to the goals, policies, or objectives of the local government's comprehensive plan. Amendments submitted under this subsection are exempt from the limitation on the frequency of plan amendments in s. 163.3187.

Section 6. Paragraphs (b) and (f) of subsection (1) of section 163.3187, Florida Statutes, is amended, present subsections (2) through (6) of that section are redesignated as subsections (3) through (7), respectively, and a new subsection

954204

578-01996C-09

(2) is added to that section, to read:

163.3187 Amendment of adopted comprehensive plan.—

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

(b) Any local government comprehensive plan amendments directly related to a proposed development of regional impact, including changes which have been determined to be substantial deviations and including Florida Quality Developments pursuant to s. 380.061, may be initiated by a local planning agency and considered by the local governing body at the same time as the application for development approval using the procedures provided for local plan amendment in this section and applicable local ordinances~~, without regard to statutory or local ordinance limits on the frequency of consideration of amendments to the local comprehensive plan~~. ~~Nothing in this subsection shall be deemed to require favorable consideration of a plan amendment solely because it is related to a development of regional impact.~~

(f) ~~Any comprehensive plan amendment that changes the schedule in~~ The capital improvements element annual update required in s. 163.3177(3)(b)2.~~, and any amendments directly related to the schedule, may be made once in a calendar year on a date different from the two times provided in this subsection when necessary to coincide with the adoption of the local government's budget and capital improvements program~~.

(2) Other than the exceptions listed in subsection (1), text amendments to the goals, objectives, or policies of the local government's comprehensive plan may be adopted only once a

year.

Section 7. Paragraph (a) of subsection (9) of section 163.3246, Florida Statutes, is amended to read:

163.3246 Local government comprehensive planning certification program.—

(9)(a) Upon certification all comprehensive plan amendments associated with the area certified must be adopted and reviewed in the manner described in ss. 163.3184(1), (2), (7), (14), (15), and (16) and 163.3187, such that state and regional agency review is eliminated. The department may not issue any objections, recommendations, and comments report on proposed plan amendments or a notice of intent on adopted plan amendments; however, affected persons, as defined by s. 163.3184(1)(a), may file a petition for administrative review pursuant to the requirements of s. 163.3187(4)(a) ~~s. 163.3187(3)(a)~~ to challenge the compliance of an adopted plan amendment.

Section 8. Section 163.32465, Florida Statutes, is amended 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

954204

578-01996C-09

diversity and should vary based on local government conditions, capabilities, needs, and the extent and type of development. Therefore ~~Thus~~, the Legislature recognizes ~~and finds~~ that reduced state oversight of local comprehensive planning is justified for some local governments in urban areas and for certain types of development.

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

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

(2) ALTERNATIVE STATE REVIEW PROCESS ~~PILOT PROGRAM~~.—The alternative state review process provided in this section applies to: ~~Pinellas and Broward Counties, and the municipalities within these counties, and Jacksonville, Miami,~~

~~Tampa, and Hialeah shall follow an alternative state review process provided in this section. Municipalities within the pilot counties may elect, by super majority vote of the governing body, not to participate in the pilot program.~~

(a) Future land use map amendments within local governments that qualify as a dense urban land area as defined in s. 163.3164(5); and

(b) Future land use map amendments within an area designated by the Governor as a rural area of critical economic concern under s. 288.0656(7) for the duration of such designation. Before the adoption of such an amendment, the local government must obtain the agreement of the Office of Tourism, Trade, and Economic Development in writing stating that the plan amendment for the project furthers the economic objectives set forth in s. 288.0656(7).

(3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS ~~UNDER THE PILOT PROGRAM.—~~

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

(b) Amendments that qualify as small-scale development amendments may continue to be adopted in ~~by the pilot program~~ jurisdictions that use the alternative review process pursuant to s. 163.3187(1)(c) and (4)~~(3)~~.

(c) Plan amendments that propose a rural land stewardship area pursuant to s. 163.3177(11)(d); propose an optional sector plan; propose map amendments in areas of critical state concern or coastal high-hazard areas; include recently annexed areas

within a municipality; update a comprehensive plan based on an evaluation and appraisal report; implement ~~new~~ statutory requirements that were not previously incorporated into a comprehensive plan; or new plans for newly incorporated municipalities are subject to state review as set forth in s. 163.3184.

(d) Alternative review ~~Pilot program~~ jurisdictions are ~~shall be~~ subject to the frequency and timing requirements for plan amendments set forth in ss. 163.3187 and 163.3191, except as ~~where~~ otherwise stated in this section.

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

(4) INITIAL HEARING ON COMPREHENSIVE PLAN AMENDMENT ~~FOR PILOT PROGRAM~~.—

(a) The local government shall hold its first public hearing on a comprehensive plan amendment on a weekday at least 7 days after the day the first advertisement is published pursuant to the requirements of chapter 125 or chapter 166. Upon an affirmative vote of not less than a majority of the members of the governing body present at the hearing, the local government shall immediately transmit the amendment or amendments and appropriate supporting data and analyses to the state land planning agency; the appropriate regional planning council and water management district; the Department of Environmental Protection; the Department of State; the Department of Transportation; in the case of municipal plans, to the appropriate county; the Fish and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services;

and in the case of amendments that include or impact the public school facilities element, the Office of Educational Facilities of the Commissioner of Education. The local governing body shall also transmit a copy of the amendments and supporting data and analyses to any other local government or governmental agency that has filed a written request with the governing body. In addition, the local government may request that the state land planning agency issue a report containing its objections, recommendations, or comments on the amendments and supporting data and analyses. A local government that makes such request must notify all of the agencies and local governments listed in this paragraph of the request.

(b) The agencies and local governments specified in paragraph (a) may provide comments regarding the amendment or amendments to the local government. The regional planning council review and comment shall be limited to effects on regional resources or facilities identified in the strategic regional policy plan and extrajurisdictional impacts that would be inconsistent with the comprehensive plan of the affected local government. A regional planning council shall not review and comment on a proposed comprehensive plan amendment prepared by such council unless the plan amendment has been changed by the local government subsequent to the preparation of the plan amendment by the regional planning council. County comments on municipal comprehensive plan amendments shall be primarily in the context of the relationship and effect of the proposed plan amendments on the county plan. Municipal comments on county plan amendments shall be primarily in the context of the relationship and effect of the amendments on the municipal plan. State agency

comments may include technical guidance on issues of agency jurisdiction as it relates to the requirements of this part. Such comments must ~~shall~~ clearly identify issues that, if not resolved, may result in a ~~an agency~~ challenge to the plan amendment from the state land planning agency. ~~For the purposes of this pilot program,~~ Agencies are encouraged to focus potential challenges on issues of regional or statewide importance. Agencies and local governments must transmit their comments to the affected local government, if issued, within 30 days after ~~such that they are received by the local government not later than thirty days from the date on which~~ the state land planning agency notifies the affected local government that the plan amendment package is complete ~~or government received the amendment or amendments~~. Any comments from the agencies and local governments must also be transmitted to the state land planning agency. If the local government requested a report from the state planning agency listing objections, recommendations, and comments, the state planning agency has 15 days after receiving all of the comments from the agencies and local governments to issue the report.

(5) ADOPTION OF COMPREHENSIVE PLAN AMENDMENT FOR ALTERNATIVE REVIEW JURISDICTIONS ~~PILOT AREAS~~.—

(a) The local government shall hold its second public hearing, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, on a weekday at least 5 days after the day the second advertisement is published pursuant to ~~the requirements of~~ chapter 125 or chapter 166. Adoption of comprehensive plan amendments must be by ordinance ~~and requires an affirmative vote of a majority of the members of the~~

~~governing body present at the second hearing~~. The hearing must be conducted and the amendment must be adopted, adopted with changes, or not adopted within 120 days after the agency comments are received pursuant to paragraph (4)(b). If a local government fails to adopt the plan amendment within the timeframe set forth in this paragraph, the plan amendment is deemed abandoned and the plan amendment may not be considered until the next available amendment cycle pursuant to s. 163.3187.

(b) All comprehensive plan amendments adopted by the governing body along with the supporting data and analysis shall be transmitted within 10 days of the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (4)(b).

(6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR ALTERNATIVE REVIEW JURISDICTIONS ~~PILOT PROGRAM~~.—

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

(b) The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing. This petition must be filed with

the Division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete. For purposes of this section, an amendment shall be deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words to be deleted lined through with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate. The state land planning agency shall notify the local government of any deficiencies within 5 working days of receipt of an amendment package.

(c) The state land planning agency's challenge shall be limited to those issues raised in the comments provided by the reviewing agencies pursuant to paragraph (4)(b). The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies provided comments. For alternative review jurisdictions ~~the purposes of this pilot program~~, the Legislature strongly encourages the state land planning agency to focus any challenge on issues of regional or statewide importance.

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

compliance.”

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

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

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

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

(g) An amendment adopted under the expedited provisions of this section shall not become effective until the completion of the time period available to the state land planning agency for administrative challenge under paragraph (a) ~~31 days after adoption~~. If timely challenged, an amendment shall not become effective until the state land planning agency or the Administration Commission enters a final order determining that the adopted amendment is ~~to be~~ in compliance.

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

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

(8) RULEMAKING AUTHORITY ~~FOR PILOT PROGRAM~~.—The state land planning agency may adopt procedural ~~Agencies shall not promulgate~~ rules to administer ~~implement~~ this section ~~pilot program~~.

~~(9) REPORT.—The Office of Program Policy Analysis and Government Accountability shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2008, a report and recommendations for implementing a statewide program that addresses the legislative findings in subsection (1) in areas that meet urban criteria. The Office of Program Policy Analysis and Government Accountability in consultation with the state land planning agency shall develop the report and recommendations with input from other state and regional agencies, local governments, and interest groups. Additionally, the office shall review local and state actions and correspondence relating to the pilot program to identify issues of process and substance in recommending changes to the pilot program. At a minimum, the report and recommendations shall~~

~~include the following:~~

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

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

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

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

Section 9. Subsection (29) is added to section 380.06, Florida Statutes, to read:

380.06 Developments of regional impact.—

(29) EXEMPTIONS FOR DENSE URBAN LAND AREAS.-

(a) Any proposed development in a local government which has been designated by the state land planning agency as a dense urban land area as defined in s. 163.3164(5) is exempt from this

section effective upon such designation being published in the Florida Administrative Weekly.

(b) A development that is located partially within a jurisdiction that is not exempt from the development-of-regional-impact program must undergo development-of-regional-impact review pursuant to s. 380.06.

(c) In jurisdictions exempt under paragraph (a), previously approved development-of-regional-impact development orders shall continue to be effective and developments that have a pending application for development approval shall be governed by s. 380.115(1) and (2).

(d) Local governments must render by mail a development order to the state land planning agency for projects that would be larger than 120 percent of any applicable development-of regional-impact threshold and would require development-of-regional-impact review but for the exemption from the program under paragraph (a). For such development orders, the state land planning agency is an "aggrieved or adversely affected party" as defined in s. 163.3215(2) and may challenge and appeal the development order for consistency with the comprehensive plan adopted under chapter 163 using the procedures provided in s. 163.3215.

Section 10. Paragraph (d) of subsection (3) of section 163.31801, Florida Statutes, is amended to read:

163.31801 Impact fees; short title; intent; definitions; ordinances levying impact fees.—

(3) An impact fee adopted by ordinance of a county or municipality or by resolution of a special district must, at minimum:

954204

578-01996C-09

(d) Require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased ~~amended~~ impact fee. A county or municipality is not required to wait 90 days to decrease, suspend, or eliminate an impact fee.

Section 11. This act shall take effect upon becoming a law.