

By the Committee on Environmental Preservation and Conservation;  
and Senator Altman

592-02517-10

20101126c1

1                                   A bill to be entitled  
2       An act relating to permitting; amending s. 403.973,  
3       F.S.; clarifying duties of the Office of Tourism,  
4       Trade, and Economic Development to approve expedited  
5       permitting and comprehensive plan amendments;  
6       providing additional authority to the Secretary of  
7       Environmental Protection; revising criteria for  
8       businesses submitting permit applications or local  
9       comprehensive plan amendments; providing that permit  
10      applications and local comprehensive plan amendments  
11      for specified biofuel and renewable energy projects  
12      are eligible for the expedited permitting process;  
13      providing for the establishment of regional permit  
14      action teams through the execution of memoranda of  
15      agreement developed by permit applicants and the  
16      secretary; providing for the appeal of a local  
17      government's approval of an expedited permit or  
18      comprehensive plan amendment; requiring such appeals  
19      to be consolidated with challenges to state agency  
20      actions; specifying the form of the memoranda of  
21      agreement developed by the secretary; revising the  
22      deadline by which certain final orders must be issued;  
23      specifying additional requirements for recommended  
24      orders; providing for challenges to state agency  
25      action related to expedited permitting for specified  
26      renewable energy projects; revising provisions  
27      relating to the review of sites proposed for the  
28      location of facilities eligible for the Innovation  
29      Incentive Program; providing that electrical power

592-02517-10

20101126c1

30 projects using renewable fuels are eligible for  
31 expedited review; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
34

35 Section 1. Section 403.973, Florida Statutes, is amended to  
36 read:

37 403.973 Expedited permitting; amendments to comprehensive  
38 plans ~~plan amendments~~.

39 (1) It is the intent of the Legislature to encourage and  
40 facilitate the location and expansion of those types of economic  
41 development projects which offer job creation and high wages,  
42 strengthen and diversify the state's economy, and have been  
43 thoughtfully planned to take into consideration the protection  
44 of the state's environment. It is also the intent of the  
45 Legislature to provide for an expedited permitting and  
46 comprehensive plan amendment process for such projects.

47 (2) As used in this section, the term:

48 (a) "Duly noticed" means publication in a newspaper of  
49 general circulation in the municipality or county with  
50 jurisdiction. The notice shall appear on at least 2 separate  
51 days, one of which shall be at least 7 days before the meeting.  
52 The notice shall state the date, time, and place of the meeting  
53 scheduled to discuss or enact the memorandum of agreement, and  
54 the places within the municipality or county where such proposed  
55 memorandum of agreement may be inspected by the public. The  
56 notice must be one-eighth of a page in size and must be  
57 published in a portion of the paper other than the legal notices  
58 section. The notice shall also advise that interested parties

592-02517-10

20101126c1

59 may appear at the meeting and be heard with respect to the  
60 memorandum of agreement.

61 (b) "Jobs" means permanent, full-time equivalent positions  
62 not including construction jobs.

63 (c) "Office" means the Office of Tourism, Trade, and  
64 Economic Development.

65 (d) "Permit applications" means state permits and licenses,  
66 and at the option of a participating local government, local  
67 development permits or orders.

68 (e) "Secretary" means the Secretary of Environmental  
69 Protection or his or her designee.

70 (3) (a) The secretary ~~Governor, through the office,~~ shall  
71 direct the creation of regional permit action teams~~,~~ for the  
72 purpose of expediting review of permit applications and local  
73 comprehensive plan amendments submitted by:

74 1. Businesses creating at least 50 ~~100~~ jobs;~~;~~ or

75 2. Businesses creating at least 25 ~~50~~ jobs if the project  
76 is located in an enterprise zone, or in a county having a  
77 population of fewer ~~less~~ than 75,000 or in a county having a  
78 population of fewer ~~less~~ than 100,000 which is contiguous to a  
79 county having a population of fewer ~~less~~ than 75,000, as  
80 determined by the most recent decennial census, residing in  
81 incorporated and unincorporated areas of the county.~~;~~~~or~~

82 (b) On a case-by-case basis and at the request of a county  
83 or municipal government, the office may certify as eligible for  
84 expedited review a project not meeting the minimum job creation  
85 thresholds but creating a minimum of 10 jobs. The recommendation  
86 from the governing body of the county or municipality in which  
87 the project may be located is required in order for the office

592-02517-10

20101126c1

88 to certify that any project is eligible for expedited review  
89 under this paragraph. When considering projects that do not meet  
90 the minimum job creation thresholds but that are recommended by  
91 the governing body in which the project may be located, the  
92 office shall consider economic impact factors that include, but  
93 are not limited to:

- 94 1. The proposed wage and skill levels relative to those  
95 existing in the area in which the project may be located;
- 96 2. The project's potential to diversify and strengthen the  
97 area's economy;
- 98 3. The amount of capital investment; and
- 99 4. The number of jobs that will be made available for  
100 persons served by the welfare transition program.

101 (c) At the request of a county or municipal government, the  
102 office or a Quick Permitting County may certify projects located  
103 in counties where the ratio of new jobs per participant in the  
104 welfare transition program, as determined by Workforce Florida,  
105 Inc., is less than one or otherwise critical, as eligible for  
106 the expedited permitting process. Such projects must meet the  
107 numerical job creation criteria of this subsection, but the jobs  
108 created by the project do not have to be high-wage jobs that  
109 diversify the state's economy.

110 (d) Projects located in a designated brownfield area are  
111 eligible for the expedited permitting process.

112 (e) Projects that are part of the state-of-the-art  
113 biomedical research institution and campus to be established in  
114 this state by the grantee under s. 288.955 are eligible for the  
115 expedited permitting process, if the projects are designated as  
116 part of the institution or campus by the board of county

592-02517-10

20101126c1

117 commissioners of the county in which the institution and campus  
118 are established.

119 (f) Projects resulting in the production of biofuels  
120 cultivated on lands that are 1,000 acres or more or the  
121 construction of a biofuel or biodiesel processing facility or a  
122 facility generating renewable energy as defined in s.  
123 366.91(2)(d) are eligible for the expedited permitting process.

124 (4) The regional teams shall be established through the  
125 execution of memoranda of agreement developed by the applicant  
126 and secretary, with input solicited from ~~between~~ the office and  
127 the respective heads of ~~the Department of Environmental~~  
128 ~~Protection,~~ the Department of Community Affairs, the Department  
129 of Transportation and its district offices, the Department of  
130 Agriculture and Consumer Services, the Fish and Wildlife  
131 Conservation Commission, appropriate regional planning councils,  
132 appropriate water management districts, and voluntarily  
133 participating municipalities and counties. The memoranda of  
134 agreement should also accommodate participation in this  
135 expedited process by other local governments and federal  
136 agencies as circumstances warrant.

137 (5) In order to facilitate local government's option to  
138 participate in this expedited review process, the secretary  
139 office shall, in cooperation with local governments and  
140 participating state agencies, create a standard form memorandum  
141 of agreement. A local government shall hold a duly noticed  
142 public workshop to review and explain to the public the  
143 expedited permitting process and the terms and conditions of the  
144 standard form memorandum of agreement.

145 (6) The local government shall hold a duly noticed public

592-02517-10

20101126c1

146 hearing to execute a memorandum of agreement for each qualified  
147 project. Notwithstanding any other provision of law, and at the  
148 option of the local government, the workshop provided for in  
149 subsection (5) may be conducted on the same date as the public  
150 hearing held under this subsection. The memorandum of agreement  
151 that a local government signs shall include a provision  
152 identifying necessary local government procedures and time  
153 limits that will be modified to allow for the local government  
154 decision on the project within 90 days. The memorandum of  
155 agreement applies to projects, on a case-by-case basis, that  
156 qualify for special review and approval as specified in this  
157 section. The memorandum of agreement must make it clear that  
158 this expedited permitting and review process does not modify,  
159 qualify, or otherwise alter existing local government  
160 nonprocedural standards for permit applications, unless  
161 expressly authorized by law.

162 ~~(7) At the option of the participating local government,~~  
163 ~~Appeals of local government comprehensive plan approvals ~~its~~~~  
164 ~~final approval for a project shall may be pursuant to the~~  
165 ~~summary hearing provisions of s. 120.574, pursuant to subsection~~  
166 ~~(14), and consolidated with the challenge of any applicable~~  
167 ~~state agency actions or pursuant to other appellate processes~~  
168 ~~available to the local government. The local government's~~  
169 ~~decision to enter into a summary hearing must be made as~~  
170 ~~provided in s. 120.574 or in the memorandum of agreement.~~

171 (8) Each memorandum of agreement shall include a process  
172 for final agency action on permit applications and local  
173 comprehensive plan amendment approvals within 90 days after  
174 receipt of a completed application, unless the applicant agrees

592-02517-10

20101126c1

175 to a longer time period or the secretary ~~office~~ determines that  
176 unforeseen or uncontrollable circumstances preclude final agency  
177 action within the 90-day timeframe. Permit applications governed  
178 by federally delegated or approved permitting programs whose  
179 requirements would prohibit or be inconsistent with the 90-day  
180 timeframe are exempt from this provision, but must be processed  
181 by the agency with federally delegated or approved program  
182 responsibility as expeditiously as possible.

183 (9) The secretary ~~office~~ shall inform the Legislature by  
184 October 1 of each year which agencies have not entered into or  
185 implemented an agreement and identify any barriers to achieving  
186 success of the program.

187 (10) The memoranda of agreement may provide for the waiver  
188 or modification of procedural rules prescribing forms, fees,  
189 procedures, or time limits for the review or processing of  
190 permit applications under the jurisdiction of those agencies  
191 that are party to the memoranda of agreement. Notwithstanding  
192 any other provision of law to the contrary, a memorandum of  
193 agreement must to the extent feasible provide for proceedings  
194 and hearings otherwise held separately by the parties to the  
195 memorandum of agreement to be combined into one proceeding or  
196 held jointly and at one location. Such waivers or modifications  
197 shall not be available for permit applications governed by  
198 federally delegated or approved permitting programs, the  
199 requirements of which would prohibit, or be inconsistent with,  
200 such a waiver or modification.

201 (11) The standard form for memoranda of agreement shall  
202 include guidelines to be used in working with state, regional,  
203 and local permitting authorities. Guidelines may include, but

592-02517-10

20101126c1

204 are not limited to, the following:

205 (a) A central contact point for filing permit applications  
206 and local comprehensive plan amendments and for obtaining  
207 information on permit and local comprehensive plan amendment  
208 requirements;

209 (b) Identification of the individual or individuals within  
210 each respective agency who will be responsible for processing  
211 the expedited permit application or local comprehensive plan  
212 amendment for that agency;

213 (c) A mandatory preapplication review process to reduce  
214 permitting conflicts by providing guidance to applicants  
215 regarding the permits needed from each agency and governmental  
216 entity, site planning and development, site suitability and  
217 limitations, facility design, and steps the applicant can take  
218 to ensure expeditious permit application and local comprehensive  
219 plan amendment review. As a part of this process, the first  
220 interagency meeting to discuss a project shall be held within 14  
221 days after the secretary's ~~office's~~ determination that the  
222 project is eligible for expedited review. Subsequent interagency  
223 meetings may be scheduled to accommodate the needs of  
224 participating local governments that are unable to meet public  
225 notice requirements for executing a memorandum of agreement  
226 within this timeframe. This accommodation may not exceed 45 days  
227 from the secretary's ~~office's~~ determination that the project is  
228 eligible for expedited review;

229 (d) The preparation of a single coordinated project  
230 description form and checklist and an agreement by state and  
231 regional agencies to reduce the burden on an applicant to  
232 provide duplicate information to multiple agencies;



592-02517-10

20101126c1

233 (e) Establishment of a process for the adoption and review  
234 of any comprehensive plan amendment needed by any certified  
235 project within 90 days after the submission of an application  
236 for a comprehensive plan amendment. However, the memorandum of  
237 agreement may not prevent affected persons as defined in s.  
238 163.3184 from appealing or participating in this expedited plan  
239 amendment process and any review or appeals of decisions made  
240 under this paragraph; and

241 (f) Additional incentives for an applicant who proposes a  
242 project that provides a net ecosystem benefit.

243 (12) The applicant, the regional permit action team, and  
244 participating local governments may agree to incorporate into a  
245 single document the permits, licenses, and approvals that are  
246 obtained through the expedited permit process. This consolidated  
247 permit is subject to the summary hearing provisions set forth in  
248 subsection (14).

249 (13) Notwithstanding any other provisions of law:

250 (a) Local comprehensive plan amendments for projects  
251 qualified under this section are exempt from the twice-a-year  
252 limits provision in s. 163.3187; and

253 (b) Projects qualified under this section are not subject  
254 to interstate highway level-of-service standards adopted by the  
255 Department of Transportation for concurrency purposes. The  
256 memorandum of agreement specified in subsection (5) must include  
257 a process by which the applicant will be assessed a fair share  
258 of the cost of mitigating the project's significant traffic  
259 impacts, as defined in chapter 380 and related rules. The  
260 agreement must also specify whether the significant traffic  
261 impacts on the interstate system will be mitigated through the

592-02517-10

20101126c1

262 implementation of a project or payment of funds to the  
263 Department of Transportation. Where funds are paid, the  
264 Department of Transportation must include in the 5-year work  
265 program transportation projects or project phases, in an amount  
266 equal to the funds received, to mitigate the traffic impacts  
267 associated with the proposed project.

268 (14) (a) Challenges to state agency action in the expedited  
269 permitting process for projects processed under this section are  
270 subject to the summary hearing provisions of s. 120.574, except  
271 that the administrative law judge's decision, as provided in s.  
272 120.574(2) (f), shall be in the form of a recommended order and  
273 shall not constitute the final action of the state agency. In  
274 those proceedings where the action of only one agency of the  
275 state, other than the Department of Environmental Protection, is  
276 challenged, the agency of the state shall issue the final order  
277 within 45 ~~10~~ working days after ~~of~~ receipt of the administrative  
278 law judge's recommended order. The recommended order shall  
279 inform the parties of their right to file exceptions or  
280 responses to the recommended order in accordance with the Rules  
281 of Administrative Procedure. In those proceedings where the  
282 actions of more than one agency of the state are challenged, the  
283 Governor shall issue the final order within 45 ~~10~~ working days  
284 after ~~of~~ receipt of the administrative law judge's recommended  
285 order. The recommended order shall inform the parties of their  
286 right to file exceptions or responses to the recommended order  
287 in accordance with the Rules of Administrative Procedure. This  
288 paragraph does not apply to the issuance of department licenses  
289 required under any federally delegated or approved permit  
290 program. In such instances, the department shall enter the final

592-02517-10

20101126c1

291 order. The participating agencies of the state may opt at the  
292 preliminary hearing conference to allow the administrative law  
293 judge's decision to constitute the final agency action. If a  
294 participating local government agrees to participate in the  
295 summary hearing provisions of s. 120.574 for purposes of review  
296 of local government comprehensive plan amendments, s.  
297 163.3184(9) and (10) apply.

298 (b) Projects identified in paragraph (3)(f) or challenges  
299 to state agency action in the expedited permitting process for  
300 establishment of a state-of-the-art biomedical research  
301 institution and campus in this state by the grantee under s.  
302 288.955 are subject to the same requirements as challenges  
303 brought under paragraph (a), except that, notwithstanding s.  
304 120.574, summary proceedings must be conducted within 30 days  
305 after a party files the motion for summary hearing, regardless  
306 of whether the parties agree to the summary proceeding.

307 (15) The office, working with the agencies providing  
308 cooperative assistance and input regarding ~~participating in~~ the  
309 memoranda of agreement, shall review sites proposed for the  
310 location of facilities eligible for the Innovation Incentive  
311 Program under s. 288.1089. Within 20 days after the request for  
312 the review by the office, the agencies shall provide to the  
313 office a statement as to each site's necessary permits under  
314 local, state, and federal law and an identification of  
315 significant permitting issues, which if unresolved, may result  
316 in the denial of an agency permit or approval or any significant  
317 delay caused by the permitting process.

318 (16) This expedited permitting process shall not modify,  
319 qualify, or otherwise alter existing agency nonprocedural

592-02517-10

20101126c1

320 standards for permit applications or local comprehensive plan  
321 amendments, unless expressly authorized by law. If it is  
322 determined that the applicant is not eligible to use this  
323 process, the applicant may apply for permitting of the project  
324 through the normal permitting processes.

325 (17) The office shall be responsible for certifying a  
326 business as eligible for undergoing expedited review under this  
327 section. Enterprise Florida, Inc., a county or municipal  
328 government, or the Rural Economic Development Initiative may  
329 recommend to the Office of Tourism, Trade, and Economic  
330 Development that a project meeting the minimum job creation  
331 threshold undergo expedited review.

332 (18) The office, working with the Rural Economic  
333 Development Initiative and the agencies participating in the  
334 memoranda of agreement, shall provide technical assistance in  
335 preparing permit applications and local comprehensive plan  
336 amendments for counties having a population of less than 75,000  
337 residents, or counties having fewer than 100,000 residents which  
338 are contiguous to counties having fewer than 75,000 residents.  
339 Additional assistance may include, but not be limited to,  
340 guidance in land development regulations and permitting  
341 processes, working cooperatively with state, regional, and local  
342 entities to identify areas within these counties which may be  
343 suitable or adaptable for preclearance review of specified types  
344 of land uses and other activities requiring permits.

345 (19) The following projects are ineligible for review under  
346 this part:

347 (a) A project funded and operated by a local government, as  
348 defined in s. 377.709, and located within that government's

592-02517-10

20101126c1

349 jurisdiction.

350 (b) A project, the primary purpose of which is to:

351 1. Effect the final disposal of solid waste, biomedical  
352 waste, or hazardous waste in this state.

353 2. Produce electrical power, unless the production of  
354 electricity is incidental and not the primary function of the  
355 project or the electrical power is derived from a fuel source  
356 for renewable energy as defined in s. 366.91(2)(d).

357 3. Extract natural resources.

358 4. Produce oil.

359 5. Construct, maintain, or operate an oil, petroleum,  
360 natural gas, or sewage pipeline.

361 Section 2. This act shall take effect upon becoming a law.