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1 A bill to be entitled
2 An act relating to expedited permitting; amending s.
3 403.973, F.S.; transferring authority over the expedited
4 permitting and comprehensive plan amendment process from
5 the Office of Tourism, Trade, and Economic Development to
6 the Secretary of Environmental Protection; revising job-
7 creation criteria for businesses to qualify to submit
8 permit applications and local comprehensive plan
9 amendments for expedited review; providing that permit
10 applications and local comprehensive plan amendments for
11 specified renewable energy projects are eligible for
12 expedited review; providing for the establishment of
13 regional permit action teams through the execution of
14 memoranda of agreement developed by permit applicants and
15 the secretary; revising provisions relating to the
16 memoranda of agreement developed by the secretary;
17 providing for the appeal of a local government's approval
18 for a project and requiring such appeals to be
19 consolidated with challenges to state agency actions;
20 requiring recommended orders relating to challenges to
21 state agency actions pursuant to summary hearing
22 provisions to include certain information; extending the
23 deadline for issuance of final orders relating to such
24 challenges; providing an exception; providing for
25 challenges to state agency action related to expedited
26 permitting for specified renewable energy projects;
27 revising provisions relating to the review of sites
28 proposed for the location of facilities eligible for the

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29 Innovation Incentive Program; specifying expedited review
 30 eligibility for certain electrical power projects;
 31 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
 36 to read:

37 403.973 Expedited permitting; comprehensive plan
 38 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 must ~~shall~~ appear on at least 2
 51 separate days, one of which must ~~shall~~ be at least 7 days before
 52 the meeting. The notice must ~~shall~~ state the date, time, and
 53 place of the meeting scheduled to discuss or enact the
 54 memorandum of agreement, and the places within the municipality
 55 or county where such proposed memorandum of agreement may be
 56 inspected by the public. The notice must be one-eighth of a page

57 | in size and must be published in a portion of the paper other
 58 | than the legal notices section. The notice must ~~shall~~ also
 59 | advise that interested parties may appear at the meeting and be
 60 | heard with respect to the 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 | (c) ~~(d)~~ "Permit applications" means state permits and
 66 | licenses, and at the option of a participating local government,
 67 | local development permits or orders.

68 | (d) "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 less than 75,000 or in a county having a
- 78 | population of less than 100,000 which is contiguous to a county
- 79 | having a population of less than 75,000, as determined by the
- 80 | most recent decennial census, residing in incorporated and
- 81 | 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 secretary ~~office~~ may certify as
 84 | eligible for expedited review a project not meeting the minimum

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85 job creation thresholds but creating a minimum of 10 jobs. The
86 recommendation from the governing body of the county or
87 municipality in which the project may be located is required in
88 order for the secretary ~~office~~ to certify that any project is
89 eligible for expedited review under this paragraph. When
90 considering projects that do not meet the minimum job creation
91 thresholds but that are recommended by the governing body in
92 which the project may be located, the secretary ~~office~~ shall
93 consider economic impact factors that include, but are not
94 limited to:

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

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

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

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

120 (f) Projects for the cultivation of agricultural products
121 on 1,000 acres or more for use in the production of biofuels and
122 projects for the construction of a facility to process biofuel
123 or biodiesel or to generate renewable energy, as defined in s.
124 366.91(2)(d), are eligible for expedited review.

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

138 (5) In order to facilitate local government's option to
139 participate in the ~~this~~ expedited review process, the secretary
140 ~~office~~ shall, in cooperation with local governments and

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141 participating state agencies, create a standard form memorandum
142 of agreement. A local government shall hold a duly noticed
143 public workshop to review and explain to the public the
144 expedited permitting process and the terms and conditions of the
145 standard form memorandum of agreement.

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

163 (7) ~~At the option of the participating local government,~~
164 Appeals of a local government's ~~its final~~ approval for a project
165 must ~~may~~ be pursuant to the summary hearing provisions in ~~of~~ s.
166 120.574, pursuant to subsection (14), and consolidated with the
167 challenge of applicable state agency actions, if any ~~or pursuant~~
168 ~~to other appellate processes available to the local government.~~

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169 ~~The local government's decision to enter into a summary hearing~~
170 ~~must be made as provided in s. 120.574 or in the memorandum of~~
171 ~~agreement.~~

172 (8) Each memorandum of agreement must ~~shall~~ include a
173 process for final agency action on permit applications and local
174 comprehensive plan amendment approvals within 90 days after
175 receipt of a completed application, unless the applicant agrees
176 to a longer time period or the secretary ~~office~~ determines that
177 unforeseen or uncontrollable circumstances preclude final agency
178 action within the 90-day timeframe. Permit applications governed
179 by federally delegated or approved permitting programs whose
180 requirements would prohibit or be inconsistent with the 90-day
181 timeframe are exempt from this provision, but must be processed
182 by the agency with federally delegated or approved program
183 responsibility as expeditiously as possible.

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

188 (10) The memoranda of agreement may provide for the waiver
189 or modification of procedural rules prescribing forms, fees,
190 procedures, or time limits for the review or processing of
191 permit applications under the jurisdiction of those agencies
192 that are party to the memoranda of agreement. Notwithstanding
193 any other provision of law to the contrary, a memorandum of
194 agreement must to the extent feasible provide for proceedings
195 and hearings otherwise held separately by the parties to the
196 memorandum of agreement to be combined into one proceeding or

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197 held jointly and at one location. Such waivers or modifications
198 shall not be available for permit applications governed by
199 federally delegated or approved permitting programs, the
200 requirements of which would prohibit, or be inconsistent with,
201 such a waiver or modification.

202 (11) The standard form memoranda of agreement must ~~shall~~
203 include guidelines to be used in working with state, regional,
204 and local permitting authorities. Guidelines may include, but
205 are not limited to, the following:

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

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

214 (c) A mandatory preapplication review process to reduce
215 permitting conflicts by providing guidance to applicants
216 regarding the permits needed from each agency and governmental
217 entity, site planning and development, site suitability and
218 limitations, facility design, and steps the applicant can take
219 to ensure expeditious permit application and local comprehensive
220 plan amendment review. As a part of the ~~this~~ process, the first
221 interagency meeting to discuss a project shall be held within 14
222 days after the secretary's office's ~~office's~~ determination that the
223 project is eligible for expedited review. Subsequent interagency
224 meetings may be scheduled to accommodate the needs of

225 participating local governments that are unable to meet public
 226 notice requirements for executing a memorandum of agreement
 227 within this timeframe. Such ~~This~~ accommodation may not exceed 45
 228 days from the secretary's ~~office's~~ determination that the
 229 project is eligible for expedited review;

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

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

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

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

250 (13) Notwithstanding any other provisions of law:

251 (a) Local comprehensive plan amendments for projects
 252 qualified under this section are exempt from the twice-a-year

253 | limits provision in s. 163.3187; and

254 | (b) Projects qualified under this section are not subject
 255 | to interstate highway level-of-service standards adopted by the
 256 | Department of Transportation for concurrency purposes. The
 257 | memorandum of agreement specified in subsection (5) must include
 258 | a process by which the applicant will be assessed a fair share
 259 | of the cost of mitigating the project's significant traffic
 260 | impacts, as defined in chapter 380 and related rules. The
 261 | agreement must also specify whether the significant traffic
 262 | impacts on the interstate system will be mitigated through the
 263 | implementation of a project or payment of funds to the
 264 | Department of Transportation. If ~~where~~ funds are paid, the
 265 | Department of Transportation must include in the 5-year work
 266 | program transportation projects or project phases, in an amount
 267 | equal to the funds received, to mitigate the traffic impacts
 268 | associated with the proposed project.

269 | (14) (a) Challenges to state agency action in the expedited
 270 | permitting process for projects processed under this section are
 271 | subject to the summary hearing provisions of s. 120.574, except
 272 | that the administrative law judge's decision, as provided in s.
 273 | 120.574(2)(f), shall be in the form of a recommended order and
 274 | shall not constitute the final action of the state agency. The
 275 | recommended order shall inform the parties of the right to file
 276 | exceptions and responses to the recommended order in accordance
 277 | with the uniform rules of procedure pursuant to s. 120.54. In
 278 | ~~these~~ proceedings where the action of only one agency of the
 279 | state other than the Department of Environmental Protection is
 280 | challenged, the agency of the state shall issue the final order

281 within 45 ~~10~~ working days after ~~of~~ receipt of the administrative
 282 law judge's recommended order. In ~~those~~ proceedings where the
 283 actions of more than one agency of the state are challenged, the
 284 Governor shall issue the final order within 45 ~~10~~ working days
 285 after ~~of~~ receipt of the administrative law judge's recommended
 286 order, except for the issuance of department licenses required
 287 under any federally delegated or approved permit program for
 288 which the department shall enter the final order. The
 289 participating agencies of the state may opt at the preliminary
 290 hearing conference to allow the administrative law judge's
 291 decision to constitute the final agency action. If a
 292 participating local government agrees to participate in the
 293 summary hearing provisions of s. 120.574 for purposes of review
 294 of local government comprehensive plan amendments, s.
 295 163.3184(9) and (10) apply.

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

305 (15) The secretary office, working with the agencies that
 306 provide cooperative assistance and input to participating in the
 307 memoranda of agreement, shall review sites proposed for the
 308 location of facilities eligible for the Innovation Incentive

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309 Program under s. 288.1089. Within 20 days after the request for
 310 the review by the secretary ~~office~~, the agencies shall provide
 311 to the secretary ~~office~~ a statement as to each site's necessary
 312 permits under local, state, and federal law and an
 313 identification of significant permitting issues, which if
 314 unresolved, may result in the denial of an agency permit or
 315 approval or any significant delay caused by the permitting
 316 process.

317 (16) This expedited permitting process shall not modify,
 318 qualify, or otherwise alter existing agency nonprocedural
 319 standards for permit applications or local comprehensive plan
 320 amendments, unless expressly authorized by law. If it is
 321 determined that the applicant is not eligible to use this
 322 process, the applicant may apply for permitting of the project
 323 through the normal permitting processes.

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

331 (18) The secretary ~~office~~, working with the Rural Economic
 332 Development Initiative and the agencies participating in the
 333 memoranda of agreement, shall provide technical assistance in
 334 preparing permit applications and local comprehensive plan
 335 amendments for counties having a population of less than 75,000
 336 residents, or counties having fewer than 100,000 residents which

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337 are contiguous to counties having fewer than 75,000 residents.
338 Additional assistance may include, but not be limited to,
339 guidance in land development regulations and permitting
340 processes, working cooperatively with state, regional, and local
341 entities to identify areas within these counties which may be
342 suitable or adaptable for preclearance review of specified types
343 of land uses and other activities requiring permits.

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

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

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

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

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

356 3. Extract natural resources.

357 4. Produce oil.

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

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