

1 A bill to be entitled
2 An act relating to optional sector plans; amending s.
3 163.3245, F.S.; increasing the minimum size of geographic
4 areas that qualify for the use of optional sector plans;
5 revising terminology relating to such plans; deleting
6 obsolete provisions; requiring that public notice be given
7 for scoping meetings between the state land planning
8 agency and the local government; revising the content
9 required to be included in conceptual long-term overlay
10 plans and detailed specific area plans; requiring
11 identification of water development projects and
12 transportation facilities to serve future development
13 needs; authorizing a long-term conceptual overlay plan and
14 a detailed specific area plan to be based on a planning
15 period longer than the generally applicable planning
16 period; providing that a long-term conceptual overlay plan
17 is not required to demonstrate certain need; providing
18 that a detailed specific area plan may demonstrate certain
19 need; requiring the state land planning agency to consult
20 with the Department of Agriculture and Consumer Services,
21 the Department of Environmental Protection, the Fish and
22 Wildlife Conservation Commission, and the applicable water
23 management district in its review of certain plans;
24 requiring a long-range transportation plan to be
25 consistent with the long-term conceptual overlay plan;
26 requiring certain water development projects to be
27 incorporated into certain water supply plans; authorizing
28 an applicant to request a consumptive use permit for a

29 duration commensurate with the long-term conceptual
 30 overlay plan; exempting certain developments from the
 31 requirement to develop a detailed specific area plan;
 32 requiring that certain plan amendments or long-term
 33 conceptual overlay plans include a buildout date and
 34 preclude certain changes in the development until after
 35 that date; authorizing certain development agreements
 36 between the developer and the local government; providing
 37 for the owners of property in the planning area to
 38 withdraw consent to certain plans; providing exceptions;
 39 providing for continuation of certain existing land uses;
 40 providing for certain plans in compliance before the
 41 effective date of the act to be governed by the act;
 42 providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Section 163.3245, Florida Statutes, is amended
 47 to read:

48 163.3245 Optional sector plans.—

49 (1) In recognition of the benefits of ~~conceptual~~ long-
 50 range planning for ~~the buildout of an area, and detailed~~
 51 ~~planning for~~ specific areas, ~~as a demonstration project, the~~
 52 ~~requirements of s. 380.06 may be addressed as identified by this~~
 53 ~~section for up to five~~ local governments or combinations of
 54 local governments may ~~which~~ adopt into their ~~the~~ comprehensive
 55 plans ~~plan an~~ optional sector plans ~~plan~~ in accordance with this
 56 section. This section is intended to further the intent of s.

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57 163.3177(11), which supports innovative and flexible planning
58 and development strategies, and the purposes of this part, and
59 part I of chapter 380, and to avoid duplication of effort in
60 terms of the level of data and analysis required for a
61 development of regional impact, while ensuring the adequate
62 mitigation of impacts to applicable regional resources and
63 facilities, including those within the jurisdiction of other
64 local governments, as would otherwise be provided. Optional
65 sector plans are intended for substantial geographic areas that
66 include ~~including~~ at least 15,000 ~~5,000~~ acres of one or more
67 local governmental jurisdictions and are to emphasize urban form
68 and protection of regionally significant resources and public
69 ~~facilities. The state land planning agency may approve optional~~
70 ~~sector plans of less than 5,000 acres based on local~~
71 ~~circumstances if it is determined that the plan would further~~
72 ~~the purposes of this part and part I of chapter 380. Preparation~~
73 ~~of an optional sector plan is authorized by agreement between~~
74 ~~the state land planning agency and the applicable local~~
75 ~~governments under s. 163.3171(4). An optional sector plan may be~~
76 adopted through one or more comprehensive plan amendments under
77 s. 163.3184. However, an optional sector plan may not be adopted
78 authorized in an area of critical state concern.

79 (2) Upon request by the local government having
80 jurisdiction, ~~The state land planning agency may enter into an~~
81 ~~agreement to authorize preparation of an optional sector plan~~
82 ~~upon the request of one or more local governments based on~~
83 ~~consideration of problems and opportunities presented by~~
84 ~~existing development trends; the effectiveness of current~~

85 ~~comprehensive plan provisions; the potential to further the~~
 86 ~~state comprehensive plan, applicable strategic regional policy~~
 87 ~~plans, this part, and part I of chapter 380; and those factors~~
 88 ~~identified by s. 163.3177(10)(i).~~ the applicable regional
 89 planning council shall conduct a scoping meeting with affected
 90 local governments and those agencies identified in s.
 91 163.3184(4) before preparation of the optional sector plan
 92 ~~execution of the agreement authorized by this section.~~ The
 93 purpose of this meeting is to assist the state land planning
 94 agency and the local government in the identification of the
 95 relevant planning issues to be addressed and the data and
 96 resources available to assist in the preparation of subsequent
 97 plan amendments. If a scoping meeting is conducted, the regional
 98 planning council shall make written recommendations to the state
 99 land planning agency and affected local governments regarding,
 100 ~~including whether a sustainable sector plan would be~~
 101 ~~appropriate. The agreement must define the geographic area to be~~
 102 ~~subject to the sector plan, the planning issues that will be~~
 103 ~~emphasized, the requirements for intergovernmental coordination~~
 104 ~~to address extrajurisdictional impacts, the supporting~~
 105 ~~application materials including data and analysis, and the~~
 106 ~~procedures for public participation. An agreement may address~~
 107 ~~previously adopted sector plans that are consistent with the~~
 108 ~~standards in this section. Before executing an agreement under~~
 109 ~~this subsection, the local government shall hold a duly noticed~~
 110 ~~public workshop to review and explain to the public the optional~~
 111 ~~sector planning process and the terms and conditions of the~~
 112 ~~proposed agreement. The local government shall hold a duly~~

113 ~~noticed public hearing to execute the agreement.~~ Scoping All
 114 meetings between the state land planning agency ~~department~~ and
 115 the local government must be noticed and open to the public.

116 (3) Optional sector planning encompasses two levels:
 117 adoption under s. 163.3184 of a conceptual long-term ~~buildout~~
 118 overlay plan as part of ~~to~~ the comprehensive plan, having no
 119 immediate effect on the issuance of development orders or the
 120 applicability of s. 380.06, and adoption under s. 163.3184 of
 121 detailed specific area plans that implement the conceptual long-
 122 term ~~buildout~~ overlay plan and authorize issuance of development
 123 orders, and within which s. 380.06 is waived. Until such time as
 124 a detailed specific area plan is adopted, the underlying future
 125 land use designations apply, except as provided in subsection
 126 (6).

127 (a) In addition to the other requirements of this chapter,
 128 a conceptual long-term ~~buildout~~ overlay plan must include maps
 129 and text and be supported by data and analysis that address:

130 1. A long-range conceptual overlay plan ~~framework~~ map that
 131 at a minimum identifies the allowed uses in various parts of the
 132 planning area and the maximum and minimum densities and
 133 intensities of use and that generally depicts ~~anticipated~~ areas
 134 of urban, agricultural, rural, and conservation land use.

135 2. A general identification of the water supplies needed
 136 and available sources of water, including water resource
 137 development and water supply development projects, which are
 138 needed to meet the projected demand of the future land uses in
 139 the long-term conceptual overlay plan.

140 3. A general identification of the transportation

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141 facilities to serve the future land uses in the long-term
142 conceptual overlay plan.

143 4.2. A general identification of other regionally
144 significant public facilities consistent with chapter 9J-2,
145 Florida Administrative Code, irrespective of local governmental
146 jurisdiction necessary to support buildout of the anticipated
147 future land uses, and policies setting forth the procedures to
148 be used to mitigate these impacts as part of the adoption of
149 detailed specific area plans.

150 5.3. A general identification of regionally significant
151 natural resources within the planning area and policies setting
152 forth the procedures for protection and conservation of these
153 resources compatible with the overall conservation and
154 development strategy for the planning area consistent with
155 chapter 9J-2, Florida Administrative Code.

156 6.4. General principles and guidelines that address the
157 urban form and interrelationships of anticipated future land
158 uses, and the protection and, as appropriate, restoration and
159 management of lands identified for permanent preservation
160 pursuant to subparagraph (b)7., for the purposes of and a
161 discussion, at the applicant's option, of the extent, if any, to
162 which the plan will address restoring key ecosystems, achieving
163 a more clean, healthy environment, discouraging the
164 proliferation of limiting urban sprawl, providing a range of
165 housing types, protecting wildlife and natural areas, advancing
166 the efficient use of land and other resources, and creating
167 quality communities with a design to promote travel by multiple
168 transportation modes, and enhancing the creation of jobs.

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169 ~~7.5.~~ Identification of general procedures and policies to
170 facilitate ~~ensure~~ intergovernmental coordination to address
171 extrajurisdictional impacts from the long-range conceptual
172 overlay plan ~~framework map~~.

173
174 A long-term conceptual overlay plan adopted pursuant to this
175 section may be based on a planning period longer than the
176 generally applicable planning period of the local comprehensive
177 plan. A long-term conceptual overlay plan adopted pursuant to
178 this section is not required to demonstrate need based on
179 projected population growth or on any other basis.

180 (b) In addition to the other requirements of this chapter,
181 including those in paragraph (a), the detailed specific area
182 plans must include goals, objectives, policies, and maps that
183 provide for:

184 1. An area of adequate size to accommodate a level of
185 development which achieves a functional relationship between a
186 full range of land uses within the area and to encompass at
187 least 1,000 acres. The state land planning agency may approve
188 detailed specific area plans of less than 1,000 acres based on
189 local circumstances if it is determined that the plan furthers
190 the purposes of this part and part I of chapter 380.

191 2. Detailed identification and analysis of the maximum and
192 minimum densities and intensities of use, and the distribution,
193 extent, and location of future land uses.

194 3. Detailed identification of water resource development
195 and water supply development projects and related infrastructure
196 to address water needs of development in the detailed specific

197 area plan.

198 4. Detailed identification of the transportation
 199 facilities that will serve the future land uses in the detailed
 200 specific area plan.

201 ~~5.3.~~ Detailed identification of other regionally
 202 significant public facilities, including public facilities
 203 outside the jurisdiction of the host local governments
 204 ~~government, anticipated~~ impacts of future land uses on those
 205 facilities, and required improvements consistent with the
 206 policies accompanying the plans chapter 9J-2, Florida
 207 ~~Administrative Code.~~

208 ~~6.4.~~ Public facilities necessary for the short term,
 209 including developer contributions in a financially feasible 5-
 210 year capital improvement schedule of the affected local
 211 government.

212 ~~7.5.~~ Detailed analysis and identification of specific
 213 measures to ensure ~~assure~~ the protection of lands identified in
 214 the long-term conceptual overlay plan to be permanently
 215 preserved, and, as appropriate, restored or managed, regionally
 216 ~~significant natural resources~~ and other important resources both
 217 within and outside the planning area ~~host jurisdiction,~~
 218 ~~including those regionally significant resources identified in~~
 219 ~~chapter 9J-2, Florida Administrative Code.~~

220 ~~8.6.~~ Principles and guidelines that address the urban form
 221 and the interrelationships of anticipated future land uses ~~and a~~
 222 ~~discussion, at the applicant's option, of the extent, if any, to~~
 223 ~~which the plan will address restoring key ecosystems, achieving~~
 224 a more clean, healthy environment, discouraging the

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225 proliferation of limiting urban sprawl, providing a range of
226 housing types, protecting wildlife and natural areas, advancing
227 the efficient use of land and other resources, ~~and~~ creating
228 quality communities of a design that promotes travel by multiple
229 transportation modes, and enhancing the prospects for the
230 creation of jobs.

231 9.7. Identification of specific procedures to facilitate
232 ~~ensure~~ intergovernmental coordination to address
233 extrajurisdictional impacts from ~~of~~ the detailed specific area
234 plan.

235
236 A detailed specific area plan adopted pursuant to this section
237 may be based upon a planning period longer than the generally
238 applicable planning period of the local comprehensive plan, and
239 may demonstrate a need for the detailed specific area plan by
240 reference to projected population growth, creation of workplaces
241 for job creation and new employment, remediation of preexisting
242 development patterns in the vicinity which exhibit the
243 characteristics of urban sprawl, or any other professionally
244 acceptable methodology.

245 (c) In its review of a long-term conceptual plan or a
246 detailed specific area plan, the state land planning agency
247 shall consult with the Department of Agriculture and Consumer
248 Services, the Department of Environmental Protection, the
249 Florida Fish and Wildlife Conservation Commission, and the
250 applicable water management district regarding the design of
251 areas for the protection and conservation of regionally
252 significant natural resources and for the protection and, as

253 appropriate, restoration and management of lands identified for
 254 permanent preservation pursuant to subparagraph (b)7.

255 (d)(e) This subsection does ~~may not be construed to~~
 256 prevent preparation and approval of the optional sector plan and
 257 detailed specific area plan concurrently or in the same
 258 submission.

259 (4) (a) Upon the long-term conceptual overlay plan becoming
 260 legally effective:

261 1. Any long-range transportation plan developed by a
 262 metropolitan planning organization pursuant to s. 339.175(7)
 263 shall be consistent, to the maximum extent feasible, with the
 264 long-term conceptual overlay plan, including, but not limited
 265 to, the projected population, the approved uses and densities
 266 and intensities of use and their distribution within the
 267 planning area, and the transportation facilities identified in
 268 adopted plans pursuant to subparagraphs (3) (a)3. and (3) (b)4.

269 2. The water needs, sources, and water resource
 270 development and water supply development projects identified in
 271 adopted plans pursuant to subparagraphs (3) (a)2. and (3) (b)3.
 272 shall be incorporated into the applicable district and regional
 273 water supply plans adopted in accordance with ss. 373.036 and
 274 373.0363. Accordingly, and notwithstanding the permit durations
 275 stated in s. 373.236, an applicant may request and the
 276 applicable district may issue consumptive use permits for
 277 durations commensurate with the long-term conceptual overlay
 278 plan. The permitting criteria in s. 373.223 shall be applied
 279 based on the projected population and the approved densities and
 280 intensities of use and their distribution in the long-term

281 conceptual overlay plan.

282 (b) A development that is subject to s. 380.06 may be
 283 granted development approval pursuant to s. 380.06 without
 284 submission and approval of a detailed specific area plan
 285 pursuant to this section and thereafter is subject to all
 286 requirements of s. 380.06 in lieu of the requirements of this
 287 section. ~~The host local government shall submit a monitoring~~
 288 ~~report to the state land planning agency and applicable regional~~
 289 ~~planning council on an annual basis after adoption of a detailed~~
 290 ~~specific area plan. The annual monitoring report must provide~~
 291 ~~summarized information on development orders issued, development~~
 292 ~~that has occurred, public facility improvements made, and public~~
 293 ~~facility improvements anticipated over the upcoming 5 years.~~

294 (5) When a plan amendment adopting a detailed specific
 295 area plan has become effective under ss. 163.3184 and
 296 163.3189(2), the provisions of s. 380.06 do not apply to
 297 development within the geographic area of the detailed specific
 298 area plan. However, any development-of-regional-impact
 299 development order that is vested from the detailed specific area
 300 plan may be enforced pursuant to ~~under~~ s. 380.11.

301 (a) The local government adopting the detailed specific
 302 area plan is primarily responsible for monitoring and enforcing
 303 the detailed specific area plan. Local governments shall not
 304 issue any permits or approvals or provide any extensions of
 305 services to development which ~~that~~ are not consistent with the
 306 detailed ~~sector~~ area plan.

307 (b) If the state land planning agency has reason to
 308 believe that a violation of any detailed specific area plan, ~~or~~

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309 ~~of any agreement entered into under this section,~~ has occurred
310 or is about to occur, it may institute an administrative or
311 judicial proceeding to prevent, abate, or control the conditions
312 or activity creating the violation, using the procedures in s.
313 380.11.

314 (c) In instituting an administrative or judicial
315 proceeding involving an optional sector plan or detailed
316 specific area plan, including a proceeding pursuant to paragraph
317 (b), the complaining party shall comply with the requirements of
318 s. 163.3215(4), (5), (6), and (7).

319 (d) The plan amendment adopting a detailed specific area
320 plan shall establish a buildout date until which the approved
321 development is not subject to downzoning, unit density
322 reduction, or intensity reduction, unless the local government
323 can demonstrate that substantial changes in the conditions
324 underlying the approval of the detailed specific area plan have
325 occurred, that the detailed specific area plan was based on
326 substantially inaccurate information provided by the applicant,
327 or that the change is clearly established to be essential to the
328 public health, safety, or welfare.

329 (6) If the long-term conceptual overlay plan requires that
330 development within the planning area prior to adoption of a
331 detailed specific area plan be consistent with the overlay plan
332 notwithstanding the underlying land use, the long-term
333 conceptual overlay plan shall establish a buildout date until
334 which the approved uses and densities and intensities of use are
335 not subject to downzoning, unit density reduction, or intensity
336 reduction, unless the local government can demonstrate that

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337 implementation of the plan is not continuing in good faith based
338 on standards established by plan policy, that substantial
339 changes in the conditions underlying the approval of the overlay
340 plan have occurred, that the overlay plan was based on
341 substantially inaccurate information provided by the applicant,
342 or that the change is clearly established to be essential to the
343 public health, safety, or welfare. Such a long-term overlay plan
344 may also include a phasing or staging schedule that allocates a
345 portion of the county's future growth to the planning area
346 through the buildout date in order to provide for orderly
347 physical development that discourages the proliferation of urban
348 sprawl. Beginning December 1, 1999, and each year thereafter,
349 ~~the department shall provide a status report to the Legislative~~
350 ~~Committee on Intergovernmental Relations regarding each optional~~
351 ~~sector plan authorized under this section.~~

352 (7) A developer within an area subject to a long-term
353 buildout overlay that meets the requirements of paragraph (3) (a)
354 and subsection (6) or a detailed specific area plan that meets
355 the requirements of paragraph (3) (b) may enter into a
356 development agreement with a local government pursuant to ss.
357 163.3220-163.3243. The duration of such a development agreement
358 may be through the buildout date of the long-term buildout
359 overlay plan or detailed specific area plan, as the case may be,
360 notwithstanding the limit on the duration of a development
361 agreement pursuant to s. 163.3229.

362 (8) Any owner of property within the defined planning area
363 may withdraw his consent to the long-term conceptual overlay
364 plan at any time before the local government adoption, and the

365 local government shall exclude such parcel from the adopted
 366 overlay plan. Thereafter, the overlay plan, any detailed
 367 specific area plan, and the exemption from development-of-
 368 regional-impact review under this section does not apply to the
 369 subject parcel. After adoption of the overlay plan, a landowner
 370 may withdraw his property from the overlay plan only with the
 371 approval of the local government by plan amendment.

372 (9) The adoption of a long-term conceptual overlay plan or
 373 a detailed specific area plan pursuant to this section does not
 374 limit the right to continue existing agricultural or
 375 silvicultural uses or other natural resource-based operations or
 376 to establish similar new uses that are consistent with the plans
 377 approved pursuant to this section.

378 (10) Notwithstanding the provisions of this act, a
 379 detailed specific area plan to implement a conceptual long-term
 380 buildout overlay of less than 15,000 acres, adopted by a local
 381 government and found in compliance before the effective date of
 382 this act, shall be governed by this act.

383 (11)~~(7)~~ This section does ~~may not be construed to~~ abrogate
 384 the rights of any person under this chapter.

385 Section 2. This act shall take effect July 1, 2011.