

1 A bill to be entitled
2 An act relating to the Everglades Protection Area;
3 amending s. 163.3184, F.S.; requiring comprehensive
4 plans and plan amendments that apply to certain lands
5 within the Everglades Protection Area to follow the
6 state coordinated review process; conforming cross-
7 references; requiring the Department of Environmental
8 Protection, in consultation with specified entities,
9 to make certain determinations for such plans and
10 amendments, to provide written determinations to the
11 local government and specified entities within a
12 specified timeframe, and to coordinate with the local
13 government and specified entities on certain planning
14 strategies and mitigation measures; providing a
15 condition for the adoption of such plans and plan
16 amendments upon certain determinations by the
17 department; providing an additional limitation for the
18 compliance determination of such plans and plan
19 amendments by the state land planning agency; amending
20 s. 163.3187, F.S.; authorizing site-specific text
21 changes for small scale future land use map
22 amendments; prohibiting the adoption of small scale
23 development amendments for properties located within
24 or near the Everglades Protection Area; requiring
25 local governments whose boundaries include any portion

26 | of the Everglades Protection Area to transmit adopted
 27 | small scale development amendments to the state land
 28 | planning agency within a specified timeframe; amending
 29 | ss. 420.5095 and 420.615, F.S.; conforming cross-
 30 | references; providing an effective date.

31 |
 32 | Be It Enacted by the Legislature of the State of Florida:

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 34 | Section 1. Paragraph (a) of subsection (2), paragraph (a)
 35 | of subsection (3), subsection (4), paragraph (b) of subsection
 36 | (5), and paragraph (a) of subsection (11) of section 163.3184,
 37 | Florida Statutes, are amended, and paragraph (d) is added to
 38 | subsection (2) of that section, to read:

39 | 163.3184 Process for adoption of comprehensive plan or
 40 | plan amendment.—

41 | (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

42 | (a) Plan amendments adopted by local governments shall
 43 | follow the expedited state review process in subsection (3),
 44 | except as set forth in paragraphs (b)-(d) ~~(b) and (c)~~.

45 | (d) Proposed plans and plan amendments that apply to any
 46 | land within, or within two miles of, the Everglades Protection
 47 | Area as defined in s. 373.4592(2) must follow the state
 48 | coordinated review process in subsection (4).

49 | (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
 50 | COMPREHENSIVE PLAN AMENDMENTS.—

51 (a) The process for amending a comprehensive plan
52 described in this subsection shall apply to all amendments
53 except as provided in paragraphs (2) (b) - (d) ~~(2) (b) and (c)~~ and
54 shall be applicable statewide.

55 (4) STATE COORDINATED REVIEW PROCESS.—

56 (a) Coordination.—The state land planning agency shall
57 only use the state coordinated review process described in this
58 subsection for review of comprehensive plans and plan amendments
59 described in paragraphs (2) (c) and (d) ~~paragraph (2) (c)~~. Each
60 comprehensive plan or plan amendment proposed to be adopted
61 pursuant to this subsection shall be transmitted, adopted, and
62 reviewed in the manner prescribed in this subsection. The state
63 land planning agency shall have responsibility for plan review,
64 coordination, and the preparation and transmission of comments,
65 pursuant to this subsection, to the local governing body
66 responsible for the comprehensive plan or plan amendment.

67 (b) Local government transmittal of proposed plan or
68 amendment.—Each local governing body proposing a plan or plan
69 amendment specified in paragraph (2) (c) or (d) ~~(2) (c)~~ shall
70 transmit the complete proposed comprehensive plan or plan
71 amendment to the reviewing agencies within 10 working days after
72 the first public hearing pursuant to subsection (11). The
73 transmitted document shall clearly indicate on the cover sheet
74 that this plan amendment is subject to the state coordinated
75 review process of this subsection. The local governing body

76 shall also transmit a copy of the complete proposed
77 comprehensive plan or plan amendment to any other unit of local
78 government or government agency in the state that has filed a
79 written request with the governing body for the plan or plan
80 amendment.

81 (c) Reviewing agency comments.—Except as provided in
82 paragraph (d), the agencies specified in paragraph (b) may
83 provide comments regarding the plan or plan amendments in
84 accordance with subparagraphs (3)(b)2.-4. However, comments on
85 plans or plan amendments required to be reviewed under the state
86 coordinated review process shall be sent to the state land
87 planning agency within 30 days after receipt by the state land
88 planning agency of the complete proposed plan or plan amendment
89 from the local government. If the state land planning agency
90 comments on a plan or plan amendment adopted under the state
91 coordinated review process, it shall provide comments according
92 to paragraph (d). Any other unit of local government or
93 government agency specified in paragraph (b) may provide
94 comments to the state land planning agency in accordance with
95 subparagraphs (3)(b)2.-4. within 30 days after receipt by the
96 state land planning agency of the complete proposed plan or plan
97 amendment. Written comments submitted by the public shall be
98 sent directly to the local government.

99 (d) Everglades Protection Area determinations.—A proposed
100 plan or plan amendment that applies to any land within, or

101 within 2 miles of, the Everglades Protection Area as defined in
102 s. 373.4592(2) must be reviewed pursuant to this paragraph by
103 the Department of Environmental Protection in consultation with
104 all federally recognized Indian tribes in the state. The
105 department shall determine whether the proposed plan or plan
106 amendment, or any portion thereof, adversely impacts the
107 Everglades Protection Area or the Everglades restoration and
108 protection objectives identified in s. 373.4592. The department
109 shall issue a written determination to the state land planning
110 agency, the local government, and all federally recognized
111 Indian tribes in the state within 30 days after receipt of the
112 proposed plan or plan amendment. The determination shall
113 identify any adverse impacts and may be provided as part of the
114 agency's comments pursuant to paragraph (c). Before the adoption
115 of the proposed plan or plan amendment, the department shall
116 work in coordination with the state land planning agency, the
117 local government, and all federally recognized Indian tribes in
118 the state to identify any planning strategies or measures that
119 the local government could include in the proposed plan or plan
120 amendment to eliminate or mitigate any adverse impacts to the
121 Everglades Protection Area or the Everglades restoration and
122 protection objectives in s. 373.4592. If the department
123 determines that any portion of the proposed plan or plan
124 amendment will adversely impact the Everglades Protection Area
125 or the Everglades restoration and protection objectives

126 identified in s. 373.4592, the local government shall modify
127 that portion of the proposed plan or plan amendment to include
128 planning strategies or measures to eliminate or mitigate such
129 adverse impacts before adopting the proposed plan or plan
130 amendment or that portion of the proposed plan or plan amendment
131 may not be adopted.

132 (e)~~(d)~~ State land planning agency review.—

133 1. If the state land planning agency elects to review a
134 plan or plan amendment specified in paragraph (2)(c) or (d)
135 ~~(2)(e)~~, the agency shall issue a report giving its objections,
136 recommendations, and comments regarding the proposed plan or
137 plan amendment within 60 days after receipt of the proposed plan
138 or plan amendment. Notwithstanding the limitation on comments in
139 sub-subparagraph (3)(b)4.g., the state land planning agency may
140 make objections, recommendations, and comments in its report
141 regarding whether the plan or plan amendment is in compliance
142 and whether the plan or plan amendment will adversely impact
143 important state resources and facilities. Any objection
144 regarding an important state resource or facility that will be
145 adversely impacted by the adopted plan or plan amendment must
146 ~~shall~~ also state with specificity how the plan or plan amendment
147 will adversely impact the important state resource or facility
148 and must ~~shall~~ identify measures the local government may take
149 to eliminate, reduce, or mitigate the adverse impacts. When a
150 federal, state, or regional agency has implemented a permitting

151 program, a local government is not required to duplicate or
 152 exceed that permitting program in its comprehensive plan or to
 153 implement such a permitting program in its land development
 154 regulations. This subparagraph does not prohibit the state land
 155 planning agency in conducting its review of local plans or plan
 156 amendments from making objections, recommendations, and comments
 157 regarding densities and intensities consistent with this part.
 158 In preparing its comments, the state land planning agency shall
 159 only base its considerations on written, and not oral, comments.

160 2. The state land planning agency review shall identify
 161 all written communications with the agency regarding the
 162 proposed plan amendment. The written identification must include
 163 a list of all documents received or generated by the agency,
 164 which list must be of sufficient specificity to enable the
 165 documents to be identified and copies requested, if desired, and
 166 the name of the person to be contacted to request copies of any
 167 identified document.

168 (f)~~(e)~~ Local government review of comments; adoption of
 169 plan or amendments and transmittal.—

170 1. The local government shall review the report submitted
 171 to it by the state land planning agency, if any, and written
 172 comments submitted to it by any other person, agency, or
 173 government. The local government, upon receipt of the report
 174 from the state land planning agency, shall hold a ~~its~~ second
 175 public hearing, ~~which shall be a hearing~~ to determine whether to

176 adopt the comprehensive plan or one or more comprehensive plan
 177 amendments pursuant to subsection (11). If the local government
 178 fails to hold the second hearing within 180 days after receipt
 179 of the state land planning agency's report, the amendments must
 180 ~~shall~~ be deemed withdrawn unless extended by agreement with
 181 notice to the state land planning agency and any affected person
 182 that provided comments on the amendment. The 180-day limitation
 183 does not apply to amendments processed pursuant to s. 380.06.

184 2. All comprehensive plan amendments adopted by the
 185 governing body, along with the supporting data and analysis,
 186 must ~~shall~~ be transmitted within 10 working days after the
 187 second public hearing to the state land planning agency and any
 188 other agency or local government that provided timely comments
 189 under paragraph (c). Comprehensive plan amendments that apply to
 190 any land within, or within 2 miles of, the Everglades Protection
 191 Area as defined in s. 373.4592(2) must be additionally
 192 transmitted within 10 working days after the second public
 193 hearing to the Department of Environmental Protection.

194 3. The state land planning agency shall notify the local
 195 government of any deficiencies within 5 working days after
 196 receipt of a plan or plan amendment package. For purposes of
 197 completeness, a plan or plan amendment must ~~shall~~ be deemed
 198 complete if it contains a full, executed copy of the adoption
 199 ordinance or ordinances; in the case of a text amendment, a full
 200 copy of the amended language in legislative format with new

201 words inserted in the text underlined, and words deleted
202 stricken with hyphens; in the case of a future land use map
203 amendment, a copy of the future land use map clearly depicting
204 the parcel, its existing future land use designation, and its
205 adopted designation; and a copy of any data and analyses the
206 local government deems appropriate.

207 4. After the state land planning agency makes a
208 determination of completeness regarding the adopted plan or plan
209 amendment, the state land planning agency shall have 45 days to
210 determine if the plan or plan amendment is in compliance with
211 this act. Unless the plan or plan amendment is substantially
212 changed from the one commented on, the state land planning
213 agency's compliance determination shall be limited to objections
214 raised in the objections, recommendations, and comments report
215 and the review of planning strategies or measures adopted
216 pursuant to paragraph (d). During the period provided for in
217 this subparagraph, the state land planning agency shall issue,
218 through a senior administrator or the secretary, a notice of
219 intent to find that the plan or plan amendment is in compliance
220 or not in compliance. The state land planning agency shall post
221 a copy of the notice of intent on the agency's Internet website.
222 Publication by the state land planning agency of the notice of
223 intent on the state land planning agency's Internet site shall
224 be prima facie evidence of compliance with the publication
225 requirements of this subparagraph.

226 5. A plan or plan amendment adopted under the state
227 coordinated review process shall go into effect pursuant to the
228 state land planning agency's notice of intent. If timely
229 challenged, an amendment does not become effective until the
230 state land planning agency or the Administration Commission
231 enters a final order determining the adopted amendment to be in
232 compliance.

233 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
234 AMENDMENTS.—

235 (b) The state land planning agency may file a petition
236 with the Division of Administrative Hearings pursuant to ss.
237 120.569 and 120.57, with a copy served on the affected local
238 government, to request a formal hearing to challenge whether the
239 plan or plan amendment is in compliance as defined in paragraph
240 (1)(b). The state land planning agency's petition must clearly
241 state the reasons for the challenge. Under the expedited state
242 review process, this petition must be filed with the division
243 within 30 days after the state land planning agency notifies the
244 local government that the plan amendment package is complete
245 according to subparagraph (3)(c)3. Under the state coordinated
246 review process, this petition must be filed with the division
247 within 45 days after the state land planning agency notifies the
248 local government that the plan amendment package is complete
249 according to subparagraph (4)(f)3 ~~(4)(e)3~~.

250 1. The state land planning agency's challenge to plan

251 amendments adopted under the expedited state review process
252 shall be limited to the comments provided by the reviewing
253 agencies pursuant to subparagraphs (3)(b)2.-4., upon a
254 determination by the state land planning agency that an
255 important state resource or facility will be adversely impacted
256 by the adopted plan amendment. The state land planning agency's
257 petition must ~~shall~~ state with specificity how the plan
258 amendment will adversely impact the important state resource or
259 facility. The state land planning agency may challenge a plan
260 amendment that has substantially changed from the version on
261 which the agencies provided comments but only upon a
262 determination by the state land planning agency that an
263 important state resource or facility will be adversely impacted.

264 2. If the state land planning agency issues a notice of
265 intent to find the comprehensive plan or plan amendment not in
266 compliance with this act, the notice of intent shall be
267 forwarded to the Division of Administrative Hearings of the
268 Department of Management Services, which shall conduct a
269 proceeding under ss. 120.569 and 120.57 in the county of and
270 convenient to the affected local jurisdiction. The parties to
271 the proceeding shall be the state land planning agency, the
272 affected local government, and any affected person who
273 intervenes. A ~~No~~ new issue may not be alleged as a reason to
274 find a plan or plan amendment not in compliance in an
275 administrative pleading filed more than 21 days after

276 publication of notice unless the party seeking that issue
 277 establishes good cause for not alleging the issue within that
 278 time period. Good cause does not include excusable neglect.

279 (11) PUBLIC HEARINGS.—

280 (a) The procedure for transmittal of a complete proposed
 281 comprehensive plan or plan amendment pursuant to subparagraph
 282 (3) (b)1. and paragraph (4) (b) and for adoption of a
 283 comprehensive plan or plan amendment pursuant to subparagraphs
 284 (3) (c)1. and (4) (f)1 ~~(4) (e)1~~. shall be by affirmative vote of
 285 not less than a majority of the members of the governing body
 286 present at the hearing. The adoption of a comprehensive plan or
 287 plan amendment shall be by ordinance. For the purposes of
 288 transmitting or adopting a comprehensive plan or plan amendment,
 289 the notice requirements in chapters 125 and 166 are superseded
 290 by this subsection, except as provided in this part.

291 Section 2. Subsections (1), (2), and (3) of section
 292 163.3187, Florida Statutes, are amended to read:

293 163.3187 Process for adoption of small-scale comprehensive
 294 plan amendment.—

295 (1) A small scale development amendment may be adopted
 296 under the following conditions:

297 (a) The proposed amendment involves a use of 10 acres or
 298 fewer and:

299 (b) The proposed amendment does not involve a text change
 300 to the goals, policies, and objectives of the local government's

301 comprehensive plan, but only proposes a land use change to the
302 future land use map for a site-specific small scale development
303 activity. However, site-specific text changes that relate
304 directly to, and are adopted simultaneously with, the small
305 scale future land use map amendment shall be permissible under
306 this section.

307 (c) The property that is the subject of the proposed
308 amendment is not located within an area of critical state
309 concern, unless the project subject to the proposed amendment
310 involves the construction of affordable housing units meeting
311 the criteria of s. 420.0004(3), and is located within an area of
312 critical state concern designated by s. 380.0552 or by the
313 Administration Commission pursuant to s. 380.05(1).

314 (d) The property that is the subject of the proposed
315 amendment is not located in whole or in part within, or within
316 two miles of, the Everglades Protection Area as defined in s.
317 373.4592.

318 (2) Small scale development amendments adopted pursuant to
319 this section require only one public hearing before the
320 governing board, which shall be an adoption hearing as described
321 in s. 163.3184(11). Within 10 days after the adoption of a small
322 scale development amendment, a county whose boundaries include
323 any portion of the Everglades Protection Area designated under
324 s. 373.4592, and the municipalities within the county, shall
325 transmit a copy of the amendment to the state land planning

326 agency for recordkeeping purposes.

327 (3) If the small scale development amendment involves a
 328 site within a rural area of opportunity as defined under s.
 329 288.0656(2)(d) for the duration of such designation, the 10-acre
 330 limit listed in subsection (1) shall be increased by 100 percent
 331 to 20 acres. The local government approving the small scale plan
 332 amendment shall certify to the state land planning agency that
 333 the plan amendment furthers the economic objectives set forth in
 334 the executive order issued under s. 288.0656(7), and the
 335 property subject to the plan amendment shall undergo public
 336 review to ensure that all concurrency requirements and federal,
 337 state, and local environmental permit requirements are met.

338 Section 3. Subsection (9) of section 420.5095, Florida
 339 Statutes, is amended to read:

340 420.5095 Community Workforce Housing Innovation Pilot
 341 Program.—

342 (9) Notwithstanding s. 163.3184(4)(b), (c), or (e) ~~s.~~
 343 ~~163.3184(4)(b)–(d)~~, any local government comprehensive plan
 344 amendment to implement a Community Workforce Housing Innovation
 345 Pilot Program project found consistent with this section shall
 346 be expedited as provided in this subsection. At least 30 days
 347 before ~~prior to~~ adopting a plan amendment under this subsection,
 348 the local government shall notify the state land planning agency
 349 of its intent to adopt such an amendment, and the notice shall
 350 include its evaluation related to site suitability and

351 availability of facilities and services. The public notice of
 352 the hearing required by s. 163.3184(11)(b)2. shall include a
 353 statement that the local government intends to use the expedited
 354 adoption process authorized by this subsection. Such amendments
 355 shall require only a ~~single public hearing before the governing~~
 356 ~~board, which shall be an~~ adoption hearing as described in s.
 357 163.3184(4)(f) before the governing board ~~s. 163.3184(4)(e)~~. Any
 358 further proceedings shall be governed by s. 163.3184(5)-(13).

359 Section 4. Subsection (5) of section 420.615, Florida
 360 Statutes, is amended to read:

361 420.615 Affordable housing land donation density bonus
 362 incentives.—

363 (5) The local government, as part of the approval process,
 364 shall adopt a comprehensive plan amendment, pursuant to part II
 365 of chapter 163, for the receiving land that incorporates the
 366 density bonus. Such amendment shall be adopted in the manner as
 367 required for small-scale amendments pursuant to s. 163.3187 and
 368 is not subject to the requirements of s. 163.3184(4)(b), (c), or
 369 (e) ~~s. 163.3184(4)(b)-(d)~~.

370 Section 5. This act shall take effect July 1, 2020.