



741400

LEGISLATIVE ACTION

| Senate     | . | House |
|------------|---|-------|
| Comm: RCS  | . |       |
| 03/20/2023 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

The Committee on Environment and Natural Resources (Avila) recommended the following:

**Senate Amendment**

Delete lines 104 - 329  
and insert:  
plan or plan amendment by a county as defined in s. 125.011(1)  
or any municipality located therein that applies to any land  
within, or within 2 miles of, the Everglades Protection Area as  
defined in s. 373.4592(2) must be reviewed pursuant to this  
paragraph by the Department of Environmental Protection in  
consultation with all federally recognized Indian tribes in this



741400

11 state. The department shall determine whether the proposed plan  
12 or plan amendment, or any portion thereof, adversely impacts the  
13 Everglades Protection Area or the Everglades restoration and  
14 protection objectives identified in s. 373.4592. The department  
15 shall issue a written determination to the state land planning  
16 agency, the local government, and all federally recognized  
17 Indian tribes in this state within 30 days after receipt of the  
18 proposed plan or plan amendment. The determination must identify  
19 any adverse impacts and may be provided as part of the agency's  
20 comments pursuant to paragraph (c). Before the adoption of the  
21 proposed plan or plan amendment, the department shall work in  
22 coordination with the state land planning agency, the local  
23 government, and all federally recognized Indian tribes in this  
24 state to identify any planning strategies or measures that the  
25 local government could include in the proposed plan or plan  
26 amendment to eliminate or mitigate any adverse impacts to the  
27 Everglades Protection Area or the Everglades restoration and  
28 protection objectives in s. 373.4592. If the department  
29 determines that any portion of the proposed plan or plan  
30 amendment will adversely impact the Everglades Protection Area  
31 or the Everglades restoration and protection objectives  
32 identified in s. 373.4592, the local government must modify that  
33 portion of the proposed plan or plan amendment to include  
34 planning strategies or measures to eliminate or mitigate such  
35 adverse impacts before adopting the proposed plan or plan  
36 amendment or that portion of the proposed plan or plan amendment  
37 may not be adopted. During the review process for a plan  
38 amendment pursuant to this paragraph, a local government may  
39 consider an application for a development permit or development



741400

40 order that is contingent upon adoption of such plan amendment.

41 (e) State land planning agency review.—

42 1. If the state land planning agency elects to review a  
43 plan or plan amendment specified in paragraph (2) (c) or  
44 paragraph (2) (d), the agency must ~~shall~~ issue a report giving  
45 its objections, recommendations, and comments regarding the  
46 proposed plan or plan amendment within 60 days after receipt of  
47 the proposed plan or plan amendment. Notwithstanding the  
48 limitation on comments in sub-subparagraph (3) (b) 4.g., the state  
49 land planning agency may make objections, recommendations, and  
50 comments in its report regarding whether the plan or plan  
51 amendment is in compliance and whether the plan or plan  
52 amendment will adversely impact important state resources and  
53 facilities. Any objection regarding an important state resource  
54 or facility that will be adversely impacted by the adopted plan  
55 or plan amendment must ~~shall~~ also state with specificity how the  
56 plan or plan amendment will adversely impact the important state  
57 resource or facility and must ~~shall~~ identify measures the local  
58 government may take to eliminate, reduce, or mitigate the  
59 adverse impacts. When a federal, state, or regional agency has  
60 implemented a permitting program, a local government is not  
61 required to duplicate or exceed that permitting program in its  
62 comprehensive plan or to implement such a permitting program in  
63 its land development regulations. This subparagraph does not  
64 prohibit the state land planning agency in conducting its review  
65 of local plans or plan amendments from making objections,  
66 recommendations, and comments regarding densities and  
67 intensities consistent with this part. In preparing its  
68 comments, the state land planning agency shall only base its



741400

69 considerations on written, and not oral, comments.

70 2. The state land planning agency review shall identify all  
71 written communications with the agency regarding the proposed  
72 plan amendment. The written identification must include a list  
73 of all documents received or generated by the agency, which list  
74 must be of sufficient specificity to enable the documents to be  
75 identified and copies requested, if desired, and the name of the  
76 person to be contacted to request copies of any identified  
77 document.

78 (f)(e) *Local government review of comments; adoption of*  
79 *plan or amendments and transmittal.*—

80 1. The local government shall review the report submitted  
81 to it by the state land planning agency, if any, and written  
82 comments submitted to it by any other person, agency, or  
83 government. The local government, upon receipt of the report  
84 from the state land planning agency, shall hold a ~~its~~ second  
85 public hearing, ~~which shall be a hearing~~ to determine whether to  
86 adopt the comprehensive plan or one or more comprehensive plan  
87 amendments pursuant to subsection (11). If the local government  
88 fails to hold the second hearing within 180 days after receipt  
89 of the state land planning agency's report, the amendments are  
90 ~~shall be~~ deemed withdrawn unless extended by agreement with  
91 notice to the state land planning agency and any affected person  
92 who ~~that~~ provided comments on the amendment. The 180-day  
93 limitation does not apply to amendments processed pursuant to s.  
94 380.06.

95 2. All comprehensive plan amendments adopted by the  
96 governing body, along with the supporting data and analysis,  
97 must ~~shall~~ be transmitted within 10 working days after the



741400

98 second public hearing to the state land planning agency and any  
99 other agency or local government that provided timely comments  
100 under paragraph (c). Comprehensive plan amendments by a county  
101 as defined in s. 125.011(1) or any municipality located therein  
102 that apply to any land within, or within 2 miles of, the  
103 Everglades Protection Area as defined in s. 373.4592(2) must be  
104 additionally transmitted within 10 working days after the second  
105 public hearing to the Department of Environmental Protection.

106 3. The state land planning agency shall notify the local  
107 government of any deficiencies within 5 working days after  
108 receipt of a plan or plan amendment package. For purposes of  
109 completeness, a plan or plan amendment is ~~shall be~~ deemed  
110 complete if it contains a full, executed copy of the adoption  
111 ordinance or ordinances; in the case of a text amendment, a full  
112 copy of the amended language in legislative format with new  
113 words inserted in the text underlined, and words deleted  
114 stricken with hyphens; in the case of a future land use map  
115 amendment, a copy of the future land use map clearly depicting  
116 the parcel, its existing future land use designation, and its  
117 adopted designation; and a copy of any data and analyses the  
118 local government deems appropriate.

119 4. After the state land planning agency makes a  
120 determination of completeness regarding the adopted plan or plan  
121 amendment, the state land planning agency shall have 45 days to  
122 determine if the plan or plan amendment is in compliance with  
123 this act. Unless the plan or plan amendment is substantially  
124 changed from the one commented on, the state land planning  
125 agency's compliance determination is ~~shall be~~ limited to  
126 objections raised in the objections, recommendations, and



741400

127 | comments report and the review of planning strategies or  
128 | measures adopted pursuant to paragraph (d). During the period  
129 | provided for in this subparagraph, the state land planning  
130 | agency shall issue, through a senior administrator or the  
131 | secretary, a notice of intent to find that the plan or plan  
132 | amendment is in compliance or not in compliance. The state land  
133 | planning agency shall post a copy of the notice of intent on the  
134 | agency's ~~Internet~~ website. Publication by the state land  
135 | planning agency of the notice of intent on the state land  
136 | planning agency's website is ~~Internet site shall be~~ prima facie  
137 | evidence of compliance with the publication requirements of this  
138 | subparagraph.

139 |         5. A plan or plan amendment adopted under the state  
140 | coordinated review process must ~~shall~~ go into effect pursuant to  
141 | the state land planning agency's notice of intent. If timely  
142 | challenged, an amendment does not become effective until the  
143 | state land planning agency or the Administration Commission  
144 | enters a final order determining the adopted amendment to be in  
145 | compliance.

146 |         (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN  
147 | AMENDMENTS.—

148 |         (b) The state land planning agency may file a petition with  
149 | the Division of Administrative Hearings pursuant to ss. 120.569  
150 | and 120.57, with a copy served on the affected local government,  
151 | to request a formal hearing to challenge whether the plan or  
152 | plan amendment is in compliance as defined in paragraph (1)(b).  
153 | The state land planning agency's petition must clearly state the  
154 | reasons for the challenge. Under the expedited state review  
155 | process, this petition must be filed with the division within 30



741400

156 days after the state land planning agency notifies the local  
157 government that the plan amendment package is complete according  
158 to subparagraph (3)(c)3. Under the state coordinated review  
159 process, this petition must be filed with the division within 45  
160 days after the state land planning agency notifies the local  
161 government that the plan amendment package is complete according  
162 to subparagraph (4)(f)3 ~~(4)(e)3~~.

163 1. The state land planning agency's challenge to plan  
164 amendments adopted under the expedited state review process is  
165 ~~shall be~~ limited to the comments provided by the reviewing  
166 agencies pursuant to subparagraphs (3)(b)2.-4., upon a  
167 determination by the state land planning agency that an  
168 important state resource or facility will be adversely impacted  
169 by the adopted plan amendment. The state land planning agency's  
170 petition must ~~shall~~ state with specificity how the plan  
171 amendment will adversely impact the important state resource or  
172 facility. The state land planning agency may challenge a plan  
173 amendment that has substantially changed from the version on  
174 which the agencies provided comments but only upon a  
175 determination by the state land planning agency that an  
176 important state resource or facility will be adversely impacted.

177 2. If the state land planning agency issues a notice of  
178 intent to find the comprehensive plan or plan amendment not in  
179 compliance with this act, the notice of intent must ~~shall~~ be  
180 forwarded to the Division of Administrative Hearings of the  
181 Department of Management Services, which shall conduct a  
182 proceeding under ss. 120.569 and 120.57 in the county of and  
183 convenient to the affected local jurisdiction. The parties to  
184 the proceeding must ~~shall~~ be the state land planning agency, the



741400

185 affected local government, and any affected person who  
186 intervenes. ~~A No~~ new issue may not be alleged as a reason to  
187 find a plan or plan amendment not in compliance in an  
188 administrative pleading filed more than 21 days after  
189 publication of notice unless the party seeking that issue  
190 establishes good cause for not alleging the issue within that  
191 time period. Good cause does not include excusable neglect.

192 (11) PUBLIC HEARINGS.—

193 (a) The procedure for transmittal of a complete proposed  
194 comprehensive plan or plan amendment pursuant to subparagraph  
195 (3) (b)1. and paragraph (4) (b) and for adoption of a  
196 comprehensive plan or plan amendment pursuant to subparagraphs  
197 (3) (c)1. and (4) (f)1. ~~is (4) (e)1. shall be~~ by affirmative vote  
198 of not less than a majority of the members of the governing body  
199 present at the hearing. The adoption of a comprehensive plan or  
200 plan amendment is ~~shall be~~ by ordinance. For the purposes of  
201 transmitting or adopting a comprehensive plan or plan amendment,  
202 the notice requirements in chapters 125 and 166 are superseded  
203 by this subsection, except as provided in this part.

204 Section 2. Subsections (1) and (2) of section 163.3187,  
205 Florida Statutes, are amended to read:

206 163.3187 Process for adoption of small-scale ~~small-scale~~  
207 comprehensive plan amendment.—

208 (1) A small-scale ~~small-scale~~ development amendment may be  
209 adopted if all of ~~under~~ the following conditions are met:

210 (a) The proposed amendment involves a use of 50 acres or  
211 fewer. ~~and:~~

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





741400

214 comprehensive plan, but only proposes a land use change to the  
215 future land use map for a site-specific small-scale ~~small-scale~~  
216 development activity. However, site-specific text changes that  
217 relate directly to, and are adopted simultaneously with, the  
218 small scale future land use map amendment are ~~shall be~~  
219 permissible under this section.

220 (c) The property that is the subject of the proposed  
221 amendment is not located within an area of critical state  
222 concern, unless the project subject to the proposed amendment  
223 involves the construction of affordable housing units meeting  
224 the criteria of s. 420.0004(3), and is located within an area of  
225 critical state concern designated by s. 380.0552 or by the  
226 Administration Commission pursuant to s. 380.05(1).

227 (d) The property that is the subject of the proposed  
228 amendment by a county as defined in s. 125.011(1) or any  
229 municipality located therein is not located in whole or in part  
230 within, or within 2 miles of, the Everglades Protection Area as  
231 defined in s. 373.4592(2).

232 (2) Small-scale ~~Small-scale~~ development amendments adopted  
233 pursuant to this section require only one public hearing before  
234 the governing board, which must ~~shall~~ be an adoption hearing as  
235 described in s. 163.3184(11). Within 10 days after the adoption  
236 of a small-scale development amendment by a county as defined in  
237 s. 125.011(1) or any municipality located therein, a county  
238 whose