

By Senator Avila

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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 or near the Everglades Protection Area to  
6       follow the state coordinated review process; requiring  
7       the Department of Environmental Protection, in  
8       consultation with specified entities, to make certain  
9       determinations for such plans and amendments, to  
10      provide written determinations to the local government  
11      and specified entities within a specified timeframe,  
12      and to coordinate with the local government and  
13      specified entities on certain planning strategies and  
14      mitigation measures; providing a condition for the  
15      adoption of such plans and plan amendments upon  
16      certain determinations by the department; specifying a  
17      requirement for the transmittal of certain  
18      comprehensive plan amendments to the department;  
19      revising the scope of the state land planning agency's  
20      compliance determination relating to plans and plan  
21      amendments; making technical changes; amending s.  
22      163.3187, F.S.; authorizing site-specific text changes  
23      for small-scale future land use map amendments;  
24      prohibiting the adoption of small-scale development  
25      amendments for properties located within or near the  
26      Everglades Protection Area; requiring local  
27      governments whose boundaries include any portion of  
28      the Everglades Protection Area to transmit copies of  
29      adopted small-scale development amendments to the

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30 state land planning agency within a specified  
31 timeframe; making technical changes; amending s.  
32 420.615, F.S.; conforming a cross-reference; providing  
33 an effective date.

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

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

42 163.3184 Process for adoption of comprehensive plan or plan  
43 amendment.—

44 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

45 (a) Plan amendments adopted by local governments must ~~shall~~  
46 follow the expedited state review process in subsection (3),  
47 except as set forth in paragraphs (b), (c), and (d) ~~(b) and (c)~~.

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

52 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF  
53 COMPREHENSIVE PLAN AMENDMENTS.—

54 (a) The process for amending a comprehensive plan described  
55 in this subsection applies ~~shall apply~~ to all amendments except  
56 as provided in paragraphs (2) (b), (c), and (d) ~~(2) (b) and (c)~~  
57 and is ~~shall be~~ applicable statewide.

58 (4) STATE COORDINATED REVIEW PROCESS.—

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

70 (b) *Local government transmittal of proposed plan or*  
71 *amendment.*—Each local governing body proposing a plan or plan  
72 amendment specified in paragraph (2) (c) or paragraph (2) (d) ~~must~~  
73 ~~shall~~ transmit the complete proposed comprehensive plan or plan  
74 amendment to the reviewing agencies within 10 working days after  
75 the first public hearing pursuant to subsection (11). The  
76 transmitted document must ~~shall~~ clearly indicate on the cover  
77 sheet that this plan amendment is subject to the state  
78 coordinated review process of this subsection. The local  
79 governing body must ~~shall~~ also transmit a copy of the complete  
80 proposed comprehensive plan or plan amendment to any other unit  
81 of local government or government agency in the state that has  
82 filed a written request with the governing body for the plan or  
83 plan amendment.

84 (c) *Reviewing agency comments.*—Except as provided in  
85 paragraph (d), the agencies specified in paragraph (b) may  
86 provide comments regarding the plan or plan amendments in  
87 accordance with subparagraphs (3) (b)2.-4. However, comments on

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88 plans or plan amendments required to be reviewed under the state  
89 coordinated review process must ~~shall~~ be sent to the state land  
90 planning agency within 30 days after receipt by the state land  
91 planning agency of the complete proposed plan or plan amendment  
92 from the local government. If the state land planning agency  
93 comments on a plan or plan amendment adopted under the state  
94 coordinated review process, it must ~~shall~~ provide comments  
95 according to paragraph (e) ~~(d)~~. Any other unit of local  
96 government or government agency specified in paragraph (b) may  
97 provide comments to the state land planning agency in accordance  
98 with subparagraphs (3)(b)2.-4. within 30 days after receipt by  
99 the state land planning agency of the complete proposed plan or  
100 plan amendment. Written comments submitted by the public must  
101 ~~shall~~ be sent directly to the local government.

102 (d) Everglades Protection Area determinations.—A proposed  
103 plan or plan amendment that applies to any land within, or  
104 within 2 miles of, the Everglades Protection Area as defined in  
105 s. 373.4592(2) must be reviewed pursuant to this paragraph by  
106 the Department of Environmental Protection in consultation with  
107 all federally recognized Indian tribes in this state. The  
108 department shall determine whether the proposed plan or plan  
109 amendment, or any portion thereof, adversely impacts the  
110 Everglades Protection Area or the Everglades restoration and  
111 protection objectives identified in s. 373.4592. The department  
112 shall issue a written determination to the state land planning  
113 agency, the local government, and all federally recognized  
114 Indian tribes in this state within 30 days after receipt of the  
115 proposed plan or plan amendment. The determination must identify  
116 any adverse impacts and may be provided as part of the agency's

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117 comments pursuant to paragraph (c). Before the adoption of the  
118 proposed plan or plan amendment, the department shall work in  
119 coordination with the state land planning agency, the local  
120 government, and all federally recognized Indian tribes in this  
121 state to identify any planning strategies or measures that the  
122 local government could include in the proposed plan or plan  
123 amendment to eliminate or mitigate any adverse impacts to the  
124 Everglades Protection Area or the Everglades restoration and  
125 protection objectives in s. 373.4592. If the department  
126 determines that any portion of the proposed plan or plan  
127 amendment will adversely impact the Everglades Protection Area  
128 or the Everglades restoration and protection objectives  
129 identified in s. 373.4592, the local government must modify that  
130 portion of the proposed plan or plan amendment to include  
131 planning strategies or measures to eliminate or mitigate such  
132 adverse impacts before adopting the proposed plan or plan  
133 amendment or that portion of the proposed plan or plan amendment  
134 may not be adopted.

135 (e) State land planning agency review.-

136 1. If the state land planning agency elects to review a  
137 plan or plan amendment specified in paragraph (2)(c) or  
138 paragraph (2)(d), the agency must ~~shall~~ issue a report giving  
139 its objections, recommendations, and comments regarding the  
140 proposed plan or plan amendment within 60 days after receipt of  
141 the proposed plan or plan amendment. Notwithstanding the  
142 limitation on comments in sub-subparagraph (3)(b)4.g., the state  
143 land planning agency may make objections, recommendations, and  
144 comments in its report regarding whether the plan or plan  
145 amendment is in compliance and whether the plan or plan

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146 amendment will adversely impact important state resources and  
147 facilities. Any objection regarding an important state resource  
148 or facility that will be adversely impacted by the adopted plan  
149 or plan amendment must ~~shall~~ also state with specificity how the  
150 plan or plan amendment will adversely impact the important state  
151 resource or facility and must ~~shall~~ identify measures the local  
152 government may take to eliminate, reduce, or mitigate the  
153 adverse impacts. When a federal, state, or regional agency has  
154 implemented a permitting program, a local government is not  
155 required to duplicate or exceed that permitting program in its  
156 comprehensive plan or to implement such a permitting program in  
157 its land development regulations. This subparagraph does not  
158 prohibit the state land planning agency in conducting its review  
159 of local plans or plan amendments from making objections,  
160 recommendations, and comments regarding densities and  
161 intensities consistent with this part. In preparing its  
162 comments, the state land planning agency shall only base its  
163 considerations on written, and not oral, comments.

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

172 (f) ~~(e)~~ *Local government review of comments; adoption of*  
173 *plan or amendments and transmittal.*—

174 1. The local government shall review the report submitted

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175 to it by the state land planning agency, if any, and written  
176 comments submitted to it by any other person, agency, or  
177 government. The local government, upon receipt of the report  
178 from the state land planning agency, shall hold a ~~its~~ second  
179 public hearing, ~~which shall be a hearing~~ to determine whether to  
180 adopt the comprehensive plan or one or more comprehensive plan  
181 amendments pursuant to subsection (11). If the local government  
182 fails to hold the second hearing within 180 days after receipt  
183 of the state land planning agency's report, the amendments are  
184 ~~shall be~~ deemed withdrawn unless extended by agreement with  
185 notice to the state land planning agency and any affected person  
186 who that provided comments on the amendment. The 180-day  
187 limitation does not apply to amendments processed pursuant to s.  
188 380.06.

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

199 3. The state land planning agency shall notify the local  
200 government of any deficiencies within 5 working days after  
201 receipt of a plan or plan amendment package. For purposes of  
202 completeness, a plan or plan amendment is ~~shall be~~ deemed  
203 complete if it contains a full, executed copy of the adoption

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204 ordinance or ordinances; in the case of a text amendment, a full  
205 copy of the amended language in legislative format with new  
206 words inserted in the text underlined, and words deleted  
207 stricken with hyphens; in the case of a future land use map  
208 amendment, a copy of the future land use map clearly depicting  
209 the parcel, its existing future land use designation, and its  
210 adopted designation; and a copy of any data and analyses the  
211 local government deems appropriate.

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

232 5. A plan or plan amendment adopted under the state



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233 coordinated review process must ~~shall~~ go into effect pursuant to  
234 the state land planning agency's notice of intent. If timely  
235 challenged, an amendment does not become effective until the  
236 state land planning agency or the Administration Commission  
237 enters a final order determining the adopted amendment to be in  
238 compliance.

239 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN  
240 AMENDMENTS.—

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

256 1. The state land planning agency's challenge to plan  
257 amendments adopted under the expedited state review process is  
258 ~~shall be~~ limited to the comments provided by the reviewing  
259 agencies pursuant to subparagraphs (3)(b)2.-4., upon a  
260 determination by the state land planning agency that an  
261 important state resource or facility will be adversely impacted

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262 by the adopted plan amendment. The state land planning agency's  
263 petition must ~~shall~~ state with specificity how the plan  
264 amendment will adversely impact the important state resource or  
265 facility. The state land planning agency may challenge a plan  
266 amendment that has substantially changed from the version on  
267 which the agencies provided comments but only upon a  
268 determination by the state land planning agency that an  
269 important state resource or facility will be adversely impacted.

270 2. If the state land planning agency issues a notice of  
271 intent to find the comprehensive plan or plan amendment not in  
272 compliance with this act, the notice of intent must ~~shall~~ be  
273 forwarded to the Division of Administrative Hearings of the  
274 Department of Management Services, which shall conduct a  
275 proceeding under ss. 120.569 and 120.57 in the county of and  
276 convenient to the affected local jurisdiction. The parties to  
277 the proceeding must ~~shall~~ be the state land planning agency, the  
278 affected local government, and any affected person who  
279 intervenes. A ~~No~~ new issue may not be alleged as a reason to  
280 find a plan or plan amendment not in compliance in an  
281 administrative pleading filed more than 21 days after  
282 publication of notice unless the party seeking that issue  
283 establishes good cause for not alleging the issue within that  
284 time period. Good cause does not include excusable neglect.

285 (11) PUBLIC HEARINGS.—

286 (a) The procedure for transmittal of a complete proposed  
287 comprehensive plan or plan amendment pursuant to subparagraph  
288 (3) (b) 1. and paragraph (4) (b) and for adoption of a  
289 comprehensive plan or plan amendment pursuant to subparagraphs  
290 (3) (c) 1. and (4) (f) 1. ~~is (4) (e) 1. shall be~~ by affirmative vote

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291 of not less than a majority of the members of the governing body  
292 present at the hearing. The adoption of a comprehensive plan or  
293 plan amendment is ~~shall be~~ by ordinance. For the purposes of  
294 transmitting or adopting a comprehensive plan or plan amendment,  
295 the notice requirements in chapters 125 and 166 are superseded  
296 by this subsection, except as provided in this part.

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

299 163.3187 Process for adoption of small-scale ~~small-scale~~  
300 comprehensive plan amendment.—

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

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

305 (b) The proposed amendment does not involve a text change  
306 to the goals, policies, and objectives of the local government's  
307 comprehensive plan, but only proposes a land use change to the  
308 future land use map for a site-specific small-scale ~~small-scale~~  
309 development activity. However, site-specific text changes that  
310 relate directly to, and are adopted simultaneously with, the  
311 small scale future land use map amendment are ~~shall be~~  
312 permissible under this section.

313 (c) The property that is the subject of the proposed  
314 amendment is not located within an area of critical state  
315 concern, unless the project subject to the proposed amendment  
316 involves the construction of affordable housing units meeting  
317 the criteria of s. 420.0004(3), and is located within an area of  
318 critical state concern designated by s. 380.0552 or by the  
319 Administration Commission pursuant to s. 380.05(1).

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320 (d) The property that is the subject of the proposed  
321 amendment is not located in whole or in part within, or within 2  
322 miles of, the Everglades Protection Area as defined in s.  
323 373.4592(2).

324 (2) Small-scale ~~Small-scale~~ development amendments adopted  
325 pursuant to this section require only one public hearing before  
326 the governing board, which must ~~shall~~ be an adoption hearing as  
327 described in s. 163.3184(11). Within 10 days after the adoption  
328 of a small-scale development amendment, a county whose  
329 boundaries include any portion of the Everglades Protection Area  
330 designated under s. 373.4592, and the municipalities within the  
331 county, shall transmit a copy of the amendment to the state land  
332 planning agency for recordkeeping purposes.

333 Section 3. Subsection (5) of section 420.615, Florida  
334 Statutes, is amended to read:

335 420.615 Affordable housing land donation density bonus  
336 incentives.-

337 (5) The local government, as part of the approval process,  
338 shall adopt a comprehensive plan amendment, pursuant to part II  
339 of chapter 163, for the receiving land that incorporates the  
340 density bonus. Such amendment must ~~shall~~ be adopted in the  
341 manner as required for small-scale amendments pursuant to s.  
342 163.3187 and is not subject to the requirements of s.  
343 163.3184(4) (b), (c), or (e) ~~s. 163.3184(4) (b) (d)~~.

344 Section 4. This act shall take effect July 1, 2023.