

By the Committee on Community Affairs; and Senators Avila, Calatayud, Rodriguez, and Gruters

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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 by a county as
49 defined in s. 125.011(1) or any municipality located therein
50 which apply to land within, or within 2 miles of, the Everglades
51 Protection Area as defined in s. 373.4592(2) must follow the
52 state coordinated review process in subsection (4).

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

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

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59 (4) STATE COORDINATED REVIEW PROCESS.—

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

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

85 (c) *Reviewing agency comments.*—Except as provided in
86 paragraph (d), the agencies specified in paragraph (b) may
87 provide comments regarding the plan or plan amendments in

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

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

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

136 (e) State land planning agency review.-

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

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

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

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

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175 1. The local government shall review the report submitted
176 to it by the state land planning agency, if any, and written
177 comments submitted to it by any other person, agency, or
178 government. The local government, upon receipt of the report
179 from the state land planning agency, shall hold a ~~its~~ second
180 public hearing, ~~which shall be a hearing~~ to determine whether to
181 adopt the comprehensive plan or one or more comprehensive plan
182 amendments pursuant to subsection (11). If the local government
183 fails to hold the second hearing within 180 days after receipt
184 of the state land planning agency's report, the amendments are
185 ~~shall be~~ deemed withdrawn unless extended by agreement with
186 notice to the state land planning agency and any affected person
187 who ~~that~~ provided comments on the amendment. The 180-day
188 limitation does not apply to amendments processed pursuant to s.
189 380.06.

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

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

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

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

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

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

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

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

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

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

286 (11) PUBLIC HEARINGS.—

287 (a) The procedure for transmittal of a complete proposed
288 comprehensive plan or plan amendment pursuant to subparagraph
289 (3) (b) 1. and paragraph (4) (b) and for adoption of a
290 comprehensive plan or plan amendment pursuant to subparagraphs

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291 (3) (c) 1. and (4) (f) 1. ~~is (4) (e) 1.~~ shall be by affirmative vote
292 of not less than a majority of the members of the governing body
293 present at the hearing. The adoption of a comprehensive plan or
294 plan amendment is ~~shall be~~ by ordinance. For the purposes of
295 transmitting or adopting a comprehensive plan or plan amendment,
296 the notice requirements in chapters 125 and 166 are superseded
297 by this subsection, except as provided in this part.

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

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

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

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

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

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

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320 Administration Commission pursuant to s. 380.05(1).

321 (d) The property that is the subject of the proposed
322 amendment is not located in whole or in part within, or within 2
323 miles of, the Everglades Protection Area as defined in s.
324 373.4592(2).

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

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

336 420.615 Affordable housing land donation density bonus
337 incentives.—

338 (5) The local government, as part of the approval process,
339 shall adopt a comprehensive plan amendment, pursuant to part II
340 of chapter 163, for the receiving land that incorporates the
341 density bonus. Such amendment must ~~shall~~ be adopted in the
342 manner as required for small-scale amendments pursuant to s.
343 163.3187 and is not subject to the requirements of s.
344 163.3184(4)(b), (c), or (e) ~~s. 163.3184(4)(b)-(d)~~.

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