

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

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30 governments whose boundaries include any portion of
31 the Everglades Protection Area to transmit copies of
32 adopted small-scale development amendments to the
33 state land planning agency within a specified
34 timeframe; making technical changes; amending s.
35 420.615, F.S.; conforming a cross-reference; providing
36 an effective date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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

45 163.3184 Process for adoption of comprehensive plan or plan
46 amendment.—

47 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

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

51 (d) Proposed plans and plan amendments by a county as
52 defined in s. 125.011(1) or any municipality located therein
53 which apply to land within, or within 2 miles of, the Everglades
54 Protection Area as defined in s. 373.4592(2) must follow the
55 state coordinated review process as provided in subsection (4).

56 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
57 COMPREHENSIVE PLAN AMENDMENTS.—

58 (a) The process for amending a comprehensive plan described

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59 in this subsection applies ~~shall apply~~ to all amendments except
60 as provided in paragraphs (2)(b), (c), and (d) ~~(2)(b) and (e)~~
61 and is ~~shall be~~ applicable statewide.

62 (4) STATE COORDINATED REVIEW PROCESS.—

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

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

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

106 (d) *Everglades Protection Area determinations.*—A proposed
107 plan or plan amendment by a county as defined in s. 125.011(1)
108 or any municipality located therein which applies to any land
109 within, or within 2 miles of, the Everglades Protection Area as
110 defined in s. 373.4592(2) must be reviewed pursuant to this
111 paragraph by the Department of Environmental Protection in
112 consultation with all federally recognized Indian tribes in this
113 state. The department shall determine whether the proposed plan
114 or plan amendment, or any portion thereof, adversely impacts the
115 Everglades Protection Area or the Everglades restoration and
116 protection objectives identified in s. 373.4592. The department

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117 shall issue a written determination to the state land planning
118 agency, the local government, and all federally recognized
119 Indian tribes in this state within 30 days after receipt of the
120 proposed plan or plan amendment. The determination must identify
121 any adverse impacts and may be provided as part of the agency's
122 comments pursuant to paragraph (c). Before the adoption of the
123 proposed plan or plan amendment, the department shall work in
124 coordination with the state land planning agency, the local
125 government, and all federally recognized Indian tribes in this
126 state to identify any planning strategies or measures that the
127 local government could include in the proposed plan or plan
128 amendment to eliminate or mitigate any adverse impacts to the
129 Everglades Protection Area or the Everglades restoration and
130 protection objectives identified in s. 373.4592. If the
131 department determines that any portion of the proposed plan or
132 plan amendment will adversely impact the Everglades Protection
133 Area or the Everglades restoration and protection objectives
134 identified in s. 373.4592, the local government must modify that
135 portion of the proposed plan or plan amendment to include
136 planning strategies or measures to eliminate or mitigate such
137 adverse impacts before adopting the proposed plan or plan
138 amendment or that portion of the proposed plan or plan amendment
139 may not be adopted. During the review process for a plan
140 amendment pursuant to this paragraph, a local government may
141 consider an application for a development permit or development
142 order which is contingent upon adoption of such plan amendment.

143 (e) State land planning agency review.-

144 1. If the state land planning agency elects to review a
145 plan or plan amendment specified in paragraph (2)(c) or

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146 paragraph (2) (d), the agency must ~~shall~~ issue a report giving
147 its objections, recommendations, and comments regarding the
148 proposed plan or plan amendment within 60 days after receipt of
149 the proposed plan or plan amendment. Notwithstanding the
150 limitation on comments in sub-subparagraph (3) (b)4.g., the state
151 land planning agency may make objections, recommendations, and
152 comments in its report regarding whether the plan or plan
153 amendment is in compliance and whether the plan or plan
154 amendment will adversely impact important state resources and
155 facilities. Any objection regarding an important state resource
156 or facility that will be adversely impacted by the adopted plan
157 or plan amendment must ~~shall~~ also state with specificity how the
158 plan or plan amendment will adversely impact the important state
159 resource or facility and must ~~shall~~ identify measures the local
160 government may take to eliminate, reduce, or mitigate the
161 adverse impacts. When a federal, state, or regional agency has
162 implemented a permitting program, a local government is not
163 required to duplicate or exceed that permitting program in its
164 comprehensive plan or to implement such a permitting program in
165 its land development regulations. This subparagraph does not
166 prohibit the state land planning agency in conducting its review
167 of local plans or plan amendments from making objections,
168 recommendations, and comments regarding densities and
169 intensities consistent with this part. In preparing its
170 comments, the state land planning agency shall only base its
171 considerations on written, and not oral, comments.

172 2. The state land planning agency review shall identify all
173 written communications with the agency regarding the proposed
174 plan amendment. The written identification must include a list

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175 of all documents received or generated by the agency, which list
176 must be of sufficient specificity to enable the documents to be
177 identified and copies requested, if desired, and the name of the
178 person to be contacted to request copies of any identified
179 document.

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

182 1. The local government shall review the report submitted
183 to it by the state land planning agency, if any, and written
184 comments submitted to it by any other person, agency, or
185 government. The local government, upon receipt of the report
186 from the state land planning agency, shall hold a ~~its~~ second
187 public hearing, ~~which shall be a hearing~~ to determine whether to
188 adopt the comprehensive plan or one or more comprehensive plan
189 amendments pursuant to subsection (11). If the local government
190 fails to hold the second hearing within 180 days after receipt
191 of the state land planning agency's report, the amendments are
192 ~~shall be~~ deemed withdrawn unless extended by agreement with
193 notice to the state land planning agency and any affected person
194 who ~~that~~ provided comments on the amendment. The 180-day
195 limitation does not apply to amendments processed pursuant to s.
196 380.06.

197 2. All comprehensive plan amendments adopted by the
198 governing body, along with the supporting data and analysis,
199 must ~~shall~~ be transmitted within 10 working days after the
200 second public hearing to the state land planning agency and any
201 other agency or local government that provided timely comments
202 under paragraph (c). Comprehensive plan amendments by a county
203 as defined in s. 125.011(1) or any municipality located therein

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204 which apply to any land within, or within 2 miles of, the
205 Everglades Protection Area as defined in s. 373.4592(2) must be
206 additionally transmitted within 10 working days after the second
207 public hearing to the Department of Environmental Protection.

208 3. The state land planning agency shall notify the local
209 government of any deficiencies within 5 working days after
210 receipt of a plan or plan amendment package. For purposes of
211 completeness, a plan or plan amendment is ~~shall be~~ deemed
212 complete if it contains a full, executed copy of the adoption
213 ordinance or ordinances; in the case of a text amendment, a full
214 copy of the amended language in legislative format with new
215 words inserted in the text underlined, and words deleted
216 stricken with hyphens; in the case of a future land use map
217 amendment, a copy of the future land use map clearly depicting
218 the parcel, its existing future land use designation, and its
219 adopted designation; and a copy of any data and analyses the
220 local government deems appropriate.

221 4. After the state land planning agency makes a
222 determination of completeness regarding the adopted plan or plan
223 amendment, the state land planning agency has ~~shall have~~ 45 days
224 to determine if the plan or plan amendment is in compliance with
225 this act. Unless the plan or plan amendment is substantially
226 changed from the one commented on, the state land planning
227 agency's compliance determination is ~~shall be~~ limited to
228 objections raised in the objections, recommendations, and
229 comments report and the review of planning strategies or
230 measures adopted pursuant to paragraph (d). During the period
231 provided for in this subparagraph, the state land planning
232 agency shall issue, through a senior administrator or the

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233 secretary, a notice of intent to find that the plan or plan
234 amendment is in compliance or not in compliance. The state land
235 planning agency shall post a copy of the notice of intent on the
236 agency's ~~Internet~~ website. Publication by the state land
237 planning agency of the notice of intent on the state land
238 planning agency's website is ~~Internet site shall be~~ prima facie
239 evidence of compliance with the publication requirements of this
240 subparagraph.

241 5. A plan or plan amendment adopted under the state
242 coordinated review process must ~~shall~~ go into effect pursuant to
243 the state land planning agency's notice of intent. If timely
244 challenged, an amendment does not become effective until the
245 state land planning agency or the Administration Commission
246 enters a final order determining the adopted amendment to be in
247 compliance.

248 (5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN
249 AMENDMENTS.—

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

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262 days after the state land planning agency notifies the local
263 government that the plan amendment package is complete according
264 to subparagraph (4) (f) 3. ~~(4) (e) 3.~~

265 1. The state land planning agency's challenge to plan
266 amendments adopted under the expedited state review process is
267 ~~shall be~~ limited to the comments provided by the reviewing
268 agencies pursuant to subparagraphs (3) (b) 2.-4., upon a
269 determination by the state land planning agency that an
270 important state resource or facility will be adversely impacted
271 by the adopted plan amendment. The state land planning agency's
272 petition must ~~shall~~ state with specificity how the plan
273 amendment will adversely impact the important state resource or
274 facility. The state land planning agency may challenge a plan
275 amendment that has substantially changed from the version on
276 which the agencies provided comments but only upon a
277 determination by the state land planning agency that an
278 important state resource or facility will be adversely impacted.

279 2. If the state land planning agency issues a notice of
280 intent to find the comprehensive plan or plan amendment not in
281 compliance with this act, the notice of intent must ~~shall~~ be
282 forwarded to the Division of Administrative Hearings of the
283 Department of Management Services, which shall conduct a
284 proceeding under ss. 120.569 and 120.57 in the county of and
285 convenient to the affected local jurisdiction. The parties to
286 the proceeding must ~~shall~~ be the state land planning agency, the
287 affected local government, and any affected person who
288 intervenes. A ~~No~~ new issue may not be alleged as a reason to
289 find a plan or plan amendment not in compliance in an
290 administrative pleading filed more than 21 days after

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

294 (11) PUBLIC HEARINGS.—

295 (a) The procedure for transmittal of a complete proposed
296 comprehensive plan or plan amendment pursuant to subparagraph
297 (3) (b) 1. and paragraph (4) (b) and for adoption of a
298 comprehensive plan or plan amendment pursuant to subparagraphs
299 (3) (c) 1. and (4) (f) 1. ~~is (4) (e) 1. shall be~~ by affirmative vote
300 of not less than a majority of the members of the governing body
301 present at the hearing. The adoption of a comprehensive plan or
302 plan amendment is ~~shall be~~ by ordinance. For the purposes of
303 transmitting or adopting a comprehensive plan or plan amendment,
304 the notice requirements in chapters 125 and 166 are superseded
305 by this subsection, except as provided in this part.

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

308 163.3187 Process for adoption of small-scale ~~small-scale~~
309 comprehensive plan amendment.—

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

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

314 (b) The proposed amendment does not involve a text change
315 to the goals, policies, and objectives of the local government's
316 comprehensive plan, but only proposes a land use change to the
317 future land use map for a site-specific small-scale ~~small-scale~~
318 development activity. However, site-specific text changes that
319 relate directly to, and are adopted simultaneously with, the

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320 small scale future land use map amendment are ~~shall be~~
321 permissible under this section.

322 (c) The property that is the subject of the proposed
323 amendment is not located within an area of critical state
324 concern, unless the project subject to the proposed amendment
325 involves the construction of affordable housing units meeting
326 the criteria of s. 420.0004(3), and is located within an area of
327 critical state concern designated by s. 380.0552 or by the
328 Administration Commission pursuant to s. 380.05(1).

329 (d) The property that is the subject of the proposed
330 amendment by a county as defined in s. 125.011(1) or any
331 municipality located therein is not located in whole or in part
332 within, or within 2 miles of, the Everglades Protection Area as
333 defined in s. 373.4592(2).

334 (2) Small-scale ~~Small-scale~~ development amendments adopted
335 pursuant to this section require only one public hearing before
336 the governing board, which must ~~shall~~ be an adoption hearing as
337 described in s. 163.3184(11). Within 10 days after the adoption
338 of a small-scale development amendment by a county as defined in
339 s. 125.011(1) or any municipality located therein, a county
340 whose boundaries include any portion of the Everglades
341 Protection Area designated under s. 373.4592, and the
342 municipalities within the county, shall transmit a copy of the
343 amendment to the state land planning agency for recordkeeping
344 purposes.

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

347 420.615 Affordable housing land donation density bonus
348 incentives.-

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349 (5) The local government, as part of the approval process,
350 shall adopt a comprehensive plan amendment, pursuant to part II
351 of chapter 163, for the receiving land that incorporates the
352 density bonus. Such amendment must ~~shall~~ be adopted in the
353 manner as required for small-scale amendments pursuant to s.
354 163.3187 and is not subject to the requirements of s.
355 163.3184(4)(b), (c), or (e) ~~s. 163.3184(4)(b)-(d)~~.

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