

By Senator Altman

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1                                   A bill to be entitled  
2           An act relating to optional sector plans; amending s.  
3           163.3245, F.S.; increasing the minimum size of  
4           geographic areas that qualify for the use of optional  
5           sector plans; revising terminology relating to such  
6           plans; deleting obsolete provisions; requiring that  
7           public notice be given for scoping meetings between  
8           the state land planning agency and the local  
9           government; revising the content required to be  
10          included in conceptual long-term overlay plans and  
11          detailed specific area plans; requiring identification  
12          of water development projects and transportation  
13          facilities to serve future development needs;  
14          authorizing a long-term conceptual overlay plan and a  
15          detailed specific area plan to be based on a planning  
16          period longer than the generally applicable planning  
17          period; providing that a long-term conceptual overlay  
18          plan is not required to demonstrate certain need;  
19          providing that a detailed specific area plan may  
20          demonstrate certain need; requiring the state land  
21          planning agency to consult with the Department of  
22          Agriculture and Consumer Services, the Department of  
23          Environmental Protection, the Fish and Wildlife  
24          Conservation Commission, and the applicable water  
25          management district in its review of certain plans;  
26          requiring a long-range transportation plan to be  
27          consistent with the long-term conceptual overlay plan;  
28          requiring certain water development projects to be  
29          incorporated into certain water supply plans;

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30 authorizing an applicant to request a consumptive use  
 31 permit for a duration commensurate with the long-term  
 32 conceptual overlay plan; exempting certain  
 33 developments from the requirement to develop a  
 34 detailed specific area plan; requiring that certain  
 35 plan amendments or long-term conceptual overlay plans  
 36 include a buildout date and preclude certain changes  
 37 in the development until after that date; authorizing  
 38 certain development agreements between the developer  
 39 and the local government; providing for the owners of  
 40 property in the planning area to withdraw consent to  
 41 certain plans; providing exceptions; providing for  
 42 continuation of certain existing land uses; providing  
 43 for certain plans in compliance before the effective  
 44 date of the act to be governed by the act; providing  
 45 an effective date.

46  
 47 Be It Enacted by the Legislature of the State of Florida:

48  
 49 Section 1. Section 163.3245, Florida Statutes, is amended  
 50 to read:

51 163.3245 Optional sector plans.—

52 (1) In recognition of the benefits of ~~conceptual~~ long-range  
 53 planning for ~~the buildout of an area, and detailed planning for~~  
 54 ~~specific areas, as a demonstration project, the requirements of~~  
 55 ~~s. 380.06 may be addressed as identified by this section for up~~  
 56 ~~to five~~ local governments or combinations of local governments  
 57 may which adopt into their ~~the~~ comprehensive plans ~~plan an~~  
 58 optional sector plans ~~plan~~ in accordance with this section. This

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59 section is intended to further the intent of s. 163.3177(11),  
60 which supports innovative and flexible planning and development  
61 strategies, and the purposes of this part, and part I of chapter  
62 380, and to avoid duplication of effort in terms of the level of  
63 data and analysis required for a development of regional impact,  
64 while ensuring the adequate mitigation of impacts to applicable  
65 regional resources and facilities, including those within the  
66 jurisdiction of other local governments, as would otherwise be  
67 provided. Optional sector plans are intended for substantial  
68 geographic areas that include ~~including~~ at least 15,000 ~~5,000~~  
69 acres of one or more local governmental jurisdictions and are to  
70 emphasize urban form and protection of regionally significant  
71 resources and public facilities. ~~The state land planning agency~~  
72 ~~may approve optional sector plans of less than 5,000 acres based~~  
73 ~~on local circumstances if it is determined that the plan would~~  
74 ~~further the purposes of this part and part I of chapter 380.~~  
75 ~~Preparation of an optional sector plan is authorized by~~  
76 ~~agreement between the state land planning agency and the~~  
77 ~~applicable local governments under s. 163.3171(4).~~ An optional  
78 sector plan may be adopted through one or more comprehensive  
79 plan amendments under s. 163.3184. However, an optional sector  
80 plan may not be adopted ~~authorized~~ in an area of critical state  
81 concern.

82 (2) Upon request by the local government having  
83 jurisdiction, ~~The state land planning agency may enter into an~~  
84 ~~agreement to authorize preparation of an optional sector plan~~  
85 ~~upon the request of one or more local governments based on~~  
86 ~~consideration of problems and opportunities presented by~~  
87 ~~existing development trends; the effectiveness of current~~

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88 ~~comprehensive plan provisions; the potential to further the~~  
89 ~~state comprehensive plan, applicable strategic regional policy~~  
90 ~~plans, this part, and part I of chapter 380; and those factors~~  
91 ~~identified by s. 163.3177(10)(i).~~ the applicable regional  
92 planning council shall conduct a scoping meeting with affected  
93 local governments and those agencies identified in s.  
94 163.3184(4) before preparation of the optional sector plan  
95 ~~execution of the agreement authorized by this section.~~ The  
96 purpose of this meeting is to assist the state land planning  
97 agency and the local government in the identification of the  
98 relevant planning issues to be addressed and the data and  
99 resources available to assist in the preparation of subsequent  
100 plan amendments. If a scoping meeting is conducted, the regional  
101 planning council shall make written recommendations to the state  
102 land planning agency and affected local governments regarding  
103 ~~including whether a sustainable sector plan would be~~  
104 ~~appropriate.~~ The agreement must define the geographic area to be  
105 subject to the sector plan, the planning issues that will be  
106 emphasized, the requirements for intergovernmental coordination  
107 to address extrajurisdictional impacts, the supporting  
108 application materials including data and analysis, and the  
109 procedures for public participation. ~~An agreement may address~~  
110 ~~previously adopted sector plans that are consistent with the~~  
111 ~~standards in this section.~~ Before executing an agreement under  
112 ~~this subsection, the local government shall hold a duly noticed~~  
113 ~~public workshop to review and explain to the public the optional~~  
114 ~~sector planning process and the terms and conditions of the~~  
115 ~~proposed agreement.~~ The local government shall hold a duly  
116 noticed public hearing to execute the agreement. Scoping All

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117 meetings between the state land planning agency ~~department~~ and  
118 the local government must be noticed and open to the public.

119 (3) Optional sector planning encompasses two levels:  
120 adoption under s. 163.3184 of a conceptual long-term ~~buildout~~  
121 overlay plan as part of ~~to~~ the comprehensive plan, having no  
122 immediate effect on the issuance of development orders or the  
123 applicability of s. 380.06, and adoption under s. 163.3184 of  
124 detailed specific area plans that implement the conceptual long-  
125 term ~~buildout~~ overlay plan and authorize issuance of development  
126 orders, and within which s. 380.06 is waived. Until such time as  
127 a detailed specific area plan is adopted, the underlying future  
128 land use designations apply, except as provided in subsection  
129 (6).

130 (a) In addition to the other requirements of this chapter,  
131 a conceptual long-term ~~buildout~~ overlay plan must include maps  
132 and text and be supported by data and analyses that address:

133 1. A long-range conceptual overlay plan ~~framework~~ map that  
134 at a minimum identifies the allowed uses in various parts of the  
135 planning area and the maximum and minimum densities and  
136 intensities of use and that generally depicts ~~anticipated~~ areas  
137 of urban, agricultural, rural, and conservation land use.

138 2. A general identification of the water supplies needed  
139 and available sources of water, including water resource  
140 development and water supply development projects, which are  
141 needed to meet the projected demand of the future land uses in  
142 the long-term conceptual overlay plan.

143 3. A general identification of the transportation  
144 facilities to serve the future land uses in the long-term  
145 conceptual overlay plan.

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146        ~~4.2.~~ A general identification of other regionally  
147 significant public facilities ~~consistent with chapter 9J-2,~~  
148 ~~Florida Administrative Code,~~ irrespective of local governmental  
149 jurisdiction necessary to support buildout of the ~~anticipated~~  
150 future land uses, and policies setting forth the procedures to  
151 be used to mitigate these impacts as part of the adoption of  
152 detailed specific area plans.

153        ~~5.3.~~ A general identification of regionally significant  
154 natural resources within the planning area and policies setting  
155 forth the procedures for protection and conservation of these  
156 resources compatible with the overall conservation and  
157 development strategy for the planning area ~~consistent with~~  
158 ~~chapter 9J-2, Florida Administrative Code.~~

159        ~~6.4.~~ General principles and guidelines that address the  
160 urban form and interrelationships of anticipated future land  
161 uses, and the protection and, as appropriate, restoration and  
162 management of lands identified for permanent preservation  
163 pursuant to subparagraph (b)7., for the purposes of ~~and a~~  
164 ~~discussion, at the applicant's option, of the extent, if any, to~~  
165 ~~which the plan will address restoring key ecosystems,~~ achieving  
166 a more clean, healthy environment, discouraging the  
167 proliferation of ~~limiting~~ urban sprawl, providing a range of  
168 housing types, protecting wildlife and natural areas, advancing  
169 the efficient use of land and other resources, ~~and~~ creating  
170 quality communities with a design to promote travel by multiple  
171 transportation modes, and enhancing the creation of jobs.

172        ~~7.5.~~ Identification of general procedures and policies to  
173 facilitate ~~ensure~~ intergovernmental coordination to address  
174 extrajurisdictional impacts from the long-range conceptual

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175 overlay plan ~~framework map~~.

176

177 A long-term conceptual overlay plan adopted pursuant to this  
178 section may be based on a planning period longer than the  
179 generally applicable planning period of the local comprehensive  
180 plan. A long-term conceptual overlay plan adopted pursuant to  
181 this section is not required to demonstrate need based on  
182 projected population growth or on any other basis.

183 (b) In addition to the other requirements of this chapter,  
184 including those in paragraph (a), the detailed specific area  
185 plans must include goals, objectives, policies, and maps that  
186 provide for:

187 1. An area of adequate size to accommodate a level of  
188 development which achieves a functional relationship between a  
189 full range of land uses within the area and to encompass at  
190 least 1,000 acres. The state land planning agency may approve  
191 detailed specific area plans of less than 1,000 acres based on  
192 local circumstances if it is determined that the plan furthers  
193 the purposes of this part and part I of chapter 380.

194 2. Detailed identification and analysis of the maximum and  
195 minimum densities and intensities of use, and the distribution,  
196 extent, and location of future land uses.

197 3. Detailed identification of water resource development  
198 and water supply development projects and related infrastructure  
199 to address water needs of development in the detailed specific  
200 area plan.

201 4. Detailed identification of the transportation facilities  
202 that will serve the future land uses in the detailed specific  
203 area plan.

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204       ~~5.3.~~ Detailed identification of other regionally  
205 significant public facilities, including public facilities  
206 outside the jurisdiction of the host local governments  
207 ~~government, anticipated~~ impacts of future land uses on those  
208 facilities, and required improvements consistent with the  
209 policies accompanying the plans ~~chapter 9J-2, Florida~~  
210 ~~Administrative Code.~~

211       ~~6.4.~~ Public facilities necessary for the short term,  
212 including developer contributions in a financially feasible 5-  
213 year capital improvement schedule of the affected local  
214 government.

215       ~~7.5.~~ Detailed analysis and identification of specific  
216 measures to ensure ~~assure~~ the protection of lands identified in  
217 the long-term conceptual overlay plan to be permanently  
218 preserved, and, as appropriate, restored or managed, regionally  
219 ~~significant natural resources~~ and other important resources both  
220 within and outside the planning area ~~host jurisdiction,~~  
221 ~~including those regionally significant resources identified in~~  
222 ~~chapter 9J-2, Florida Administrative Code.~~

223       ~~8.6.~~ Principles and guidelines that address the urban form  
224 and the interrelationships of anticipated future land uses ~~and a~~  
225 ~~discussion, at the applicant's option, of the extent, if any, to~~  
226 ~~which the plan will address restoring key ecosystems,~~ achieving  
227 a more clean, healthy environment, discouraging the  
228 proliferation of limiting urban sprawl, providing a range of  
229 housing types, protecting wildlife and natural areas, advancing  
230 the efficient use of land and other resources, ~~and~~ creating  
231 quality communities of a design that promotes travel by multiple  
232 transportation modes, and enhancing the prospects for the



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233 creation of jobs.

234 ~~9.7.~~ Identification of specific procedures to facilitate  
235 ~~ensure~~ intergovernmental coordination to address  
236 extrajurisdictional impacts from ~~of~~ the detailed specific area  
237 plan.

238

239 A detailed specific area plan adopted pursuant to this section  
240 may be based upon a planning period longer than the generally  
241 applicable planning period of the local comprehensive plan, and  
242 may demonstrate a need for the detailed specific area plan by  
243 reference to projected population growth, creation of workplaces  
244 for job creation and new employment, remediation of preexisting  
245 development patterns in the vicinity which exhibit the  
246 characteristics of urban sprawl, or any other professionally  
247 acceptable methodology.

248 (c) In its review of a long-term conceptual plan or a  
249 detailed specific area plan, the state land planning agency  
250 shall consult with the Department of Agriculture and Consumer  
251 Services, the Department of Environmental Protection, the  
252 Florida Fish and Wildlife Conservation Commission, and the  
253 applicable water management district regarding the design of  
254 areas for the protection and conservation of regionally  
255 significant natural resources and for the protection and, as  
256 appropriate, restoration and management of lands identified for  
257 permanent preservation pursuant to subparagraph (b)7.

258 ~~(d)(e)~~ This subsection does ~~may~~ not ~~be construed to~~ prevent  
259 preparation and approval of the optional sector plan and  
260 detailed specific area plan concurrently or in the same  
261 submission.

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262           (4) (a) Upon the long-term conceptual overlay plan becoming  
263 legally effective:

264           1. Any long-range transportation plan developed by a  
265 metropolitan planning organization pursuant to s. 339.175(7)  
266 shall be consistent, to the maximum extent feasible, with the  
267 long-term conceptual overlay plan, including, but not limited  
268 to, the projected population, the approved uses and densities  
269 and intensities of use and their distribution within the  
270 planning area, and the transportation facilities identified in  
271 adopted plans pursuant to subparagraphs (3) (a)3. and (3) (b)4.

272           2. The water needs, sources, and water resource development  
273 and water supply development projects identified in adopted  
274 plans pursuant to subparagraphs (3) (a)2. and (3) (b)3. shall be  
275 incorporated into the applicable district and regional water  
276 supply plans adopted in accordance with ss. 373.036 and  
277 373.0363. Accordingly, and notwithstanding the permit durations  
278 stated in s. 373.236, an applicant may request and the  
279 applicable district may issue consumptive use permits for  
280 durations commensurate with the long-term conceptual overlay  
281 plan. The permitting criteria in s. 373.223 shall be applied  
282 based on the projected population and the approved densities and  
283 intensities of use and their distribution in the long-term  
284 conceptual overlay plan.

285           (b) A development that is subject to s. 380.06 may be  
286 granted development approval pursuant to s. 380.06 without  
287 submission and approval of a detailed specific area plan  
288 pursuant to this section and thereafter is subject to all  
289 requirements of s. 380.06 in lieu of the requirements of this  
290 section. ~~The host local government shall submit a monitoring~~

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291 ~~report to the state land planning agency and applicable regional~~  
292 ~~planning council on an annual basis after adoption of a detailed~~  
293 ~~specific area plan. The annual monitoring report must provide~~  
294 ~~summarized information on development orders issued, development~~  
295 ~~that has occurred, public facility improvements made, and public~~  
296 ~~facility improvements anticipated over the upcoming 5 years.~~

297 (5) When a plan amendment adopting a detailed specific area  
298 plan has become effective under ss. 163.3184 and 163.3189(2),  
299 the provisions of s. 380.06 do not apply to development within  
300 the geographic area of the detailed specific area plan. However,  
301 any development-of-regional-impact development order that is  
302 vested from the detailed specific area plan may be enforced  
303 pursuant to ~~under~~ s. 380.11.

304 (a) The local government adopting the detailed specific  
305 area plan is primarily responsible for monitoring and enforcing  
306 the detailed specific area plan. Local governments shall not  
307 issue any permits or approvals or provide any extensions of  
308 services to development which ~~that~~ are not consistent with the  
309 detailed ~~sector~~ area plan.

310 (b) If the state land planning agency has reason to believe  
311 that a violation of any detailed specific area plan, ~~or of any~~  
312 ~~agreement entered into under this section,~~ has occurred or is  
313 about to occur, it may institute an administrative or judicial  
314 proceeding to prevent, abate, or control the conditions or  
315 activity creating the violation, using the procedures in s.  
316 380.11.

317 (c) In instituting an administrative or judicial proceeding  
318 involving an optional sector plan or detailed specific area  
319 plan, including a proceeding pursuant to paragraph (b), the

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320 complaining party shall comply with the requirements of s.  
321 163.3215(4), (5), (6), and (7).

322 (d) The plan amendment adopting a detailed specific area  
323 plan shall establish a buildout date until which the approved  
324 development is not subject to downzoning, unit density  
325 reduction, or intensity reduction, unless the local government  
326 can demonstrate that substantial changes in the conditions  
327 underlying the approval of the detailed specific area plan have  
328 occurred, that the detailed specific area plan was based on  
329 substantially inaccurate information provided by the applicant,  
330 or that the change is clearly established to be essential to the  
331 public health, safety, or welfare.

332 (6) If the long-term conceptual overlay plan requires that  
333 development within the planning area prior to adoption of a  
334 detailed specific area plan be consistent with the overlay plan  
335 notwithstanding the underlying land use, the long-term  
336 conceptual overlay plan shall establish a buildout date until  
337 which the approved uses and densities and intensities of use are  
338 not subject to downzoning, unit density reduction, or intensity  
339 reduction, unless the local government can demonstrate that  
340 implementation of the plan is not continuing in good faith based  
341 on standards established by plan policy, that substantial  
342 changes in the conditions underlying the approval of the overlay  
343 plan have occurred, that the overlay plan was based on  
344 substantially inaccurate information provided by the applicant,  
345 or that the change is clearly established to be essential to the  
346 public health, safety, or welfare. Such a long-term overlay plan  
347 may also include a phasing or staging schedule that allocates a  
348 portion of the county's future growth to the planning area

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349 through the buildout date in order to provide for orderly  
350 physical development that discourages the proliferation of urban  
351 sprawl. ~~Beginning December 1, 1999, and each year thereafter,~~  
352 the department shall provide a status report to the Legislative  
353 Committee on Intergovernmental Relations regarding each optional  
354 sector plan authorized under this section.

355 (7) A developer within an area subject to a long-term  
356 buildout overlay that meets the requirements of paragraph (3) (a)  
357 and subsection (6) or a detailed specific area plan that meets  
358 the requirements of paragraph (3) (b) may enter into a  
359 development agreement with a local government pursuant to ss.  
360 163.3220-163.3243. The duration of such a development agreement  
361 may be through the buildout date of the long-term buildout  
362 overlay plan or detailed specific area plan, as the case may be,  
363 notwithstanding the limit on the duration of a development  
364 agreement pursuant to s. 163.3229.

365 (8) Any owner of property within the defined planning area  
366 may withdraw his consent to the long-term conceptual overlay  
367 plan at any time before the local government adoption, and the  
368 local government shall exclude such parcel from the adopted  
369 overlay plan. Thereafter, the overlay plan, any detailed  
370 specific area plan, and the exemption from development-of-  
371 regional-impact review under this section does not apply to the  
372 subject parcel. After adoption of the overlay plan, a landowner  
373 may withdraw his property from the overlay plan only with the  
374 approval of the local government by plan amendment.

375 (9) The adoption of a long-term conceptual overlay plan or  
376 a detailed specific area plan pursuant to this section does not  
377 limit the right to continue existing agricultural or

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378 silvicultural uses or other natural resource-based operations or  
379 to establish similar new uses that are consistent with the plans  
380 approved pursuant to this section.

381 (10) Notwithstanding the provisions of this act, a detailed  
382 specific area plan to implement a conceptual long-term buildout  
383 overlay of less than 15,000 acres, adopted by a local government  
384 and found in compliance before the effective date of this act,  
385 shall be governed by this act.

386 (11) ~~(7)~~ This section does ~~may not be construed to~~ abrogate  
387 the rights of any person under this chapter.

388 Section 2. This act shall take effect July 1, 2011.