

Amendment No.

CHAMBER ACTION

Senate

House



1 Representative Cannon offered the following:

2

3 **Amendment (with title amendment)**

4 Remove lines 854-1078 and insert:

5 163.32465 State review of local comprehensive plans in  
6 urban areas.--

7 (1) LEGISLATIVE FINDINGS.--

8 (a) The Legislature finds that local governments in this  
9 state have a wide diversity of resources, conditions, abilities,  
10 and needs. The Legislature also finds that the needs and  
11 resources of urban areas are different from those of rural areas  
12 and that different planning and growth management approaches,  
13 strategies, and techniques are required in urban areas. The  
14 state role in overseeing growth management should reflect this  
15 diversity and should vary based on local government conditions,  
16 capabilities, needs, and extent of development. Thus, the

779999

4/26/2007 5:08:07 PM

Amendment No.

17 Legislature recognizes and finds that reduced state oversight of  
18 local comprehensive planning is justified for some local  
19 governments in urban areas.

20 (b) The Legislature finds and declares that this state's  
21 urban areas require a reduced level of state oversight because  
22 of their high degree of urbanization and the planning  
23 capabilities and resources of many of their local governments.  
24 An alternative state review process that is adequate to protect  
25 issues of regional or statewide importance should be created for  
26 appropriate local governments in these areas. Further, the  
27 Legislature finds that development, including urban infill and  
28 redevelopment, should be encouraged in these urban areas. The  
29 Legislature finds that an alternative process for amending local  
30 comprehensive plans in these areas should be established with an  
31 objective of streamlining the process and recognizing local  
32 responsibility and accountability.

33 (c) The Legislature finds a pilot program will be  
34 beneficial in evaluating an alternative, expedited plan  
35 amendment adoption and review process. Pilot local governments  
36 shall represent highly developed counties and the municipalities  
37 within these counties and highly populated municipalities.

38 (2) ALTERNATIVE STATE REVIEW PROCESS PILOT  
39 PROGRAM.--Pinellas and Broward Counties, and the municipalities  
40 within these counties, and Jacksonville, Miami, Tampa, and  
41 Hialeah, shall follow an alternative state review process  
42 provided in this section. Municipalities within the pilot  
43 counties may elect, by supermajority vote of the governing body,  
44 not to participate in the pilot program.

779999

4/26/2007 5:08:07 PM

Amendment No.

45 (3) PROCESS FOR ADOPTION OF COMPREHENSIVE PLAN AMENDMENTS  
46 UNDER THE PILOT PROGRAM.--

47 (a) Plan amendments adopted by the pilot program  
48 jurisdictions shall follow the alternate, expedited process in  
49 subsections (4) and (5), except as set forth in paragraphs (b)  
50 through (e) of this subsection.

51 (b) Amendments that qualify as small-scale development  
52 amendments may continue to be adopted by the pilot program  
53 jurisdictions pursuant to ss. 163.3187(1)(c) and (3).

54 (c) Plan amendments that propose a rural land stewardship  
55 area pursuant to s. 163.3177(11)(d); propose an optional sector  
56 plan; update a comprehensive plan based on an evaluation and  
57 appraisal report; implement new statutory requirements; or new  
58 plans for newly incorporated municipalities are subject to state  
59 review as set forth in s. 163.3184.

60 (d) Pilot program jurisdictions shall be subject to the  
61 frequency and timing requirements for plan amendments set forth  
62 in ss. 163.3187 and 163.3191, except where otherwise stated in  
63 this section.

64 (e) The mediation and expedited hearing provisions in s.  
65 163.3189(3) apply to all plan amendments adopted by the pilot  
66 program jurisdictions.

67 (4) INITIAL HEARING ON COMPREHENSIVE PLAN AMENDMENT FOR  
68 PILOT PROGRAM.--

69 (a) The local government shall hold its first public  
70 hearing on a comprehensive plan amendment on a weekday at least  
71 seven days after the day the first advertisement is published  
72 pursuant to the requirements of chapters 125 or 166. Upon an  
779999

4/26/2007 5:08:07 PM

Amendment No.

73 affirmative vote of not less than a majority of the members of  
74 the governing body present at the hearing, the local government  
75 shall immediately transmit the amendment or amendments and  
76 appropriate supporting data and analyses to the state land  
77 planning agency; the appropriate regional planning council and  
78 water management district; the Department of Environmental  
79 Protection; the Department of State; the Department of  
80 Transportation; in the case of municipal plans, to the  
81 appropriate county; the Fish and Wildlife Conservations  
82 Commission; the Department of Agriculture and Consumer Services;  
83 and in the case of amendments that include or impact the public  
84 school facilities element, the Office of Educational Facilities  
85 of the Commissioner of Education. The local governing body shall  
86 also transmit a copy of the amendments and supporting data and  
87 analyses to any other local government or governmental agency  
88 that has filed a written request with the governing body.

89 (b) The agencies and local governments specified in  
90 paragraph (a) may provide comments regarding the amendment or  
91 amendments to the local government. The regional planning  
92 council review and comment shall be limited to effects on  
93 regional resources or facilities identified in the strategic  
94 regional policy plan and extrajurisdictional impacts that would  
95 be inconsistent with the comprehensive plan of the affected  
96 local government. A regional planning council shall not review  
97 and comment on a proposed comprehensive plan amendment prepared  
98 by such council unless the plan has been changed by the local  
99 government subsequent to the preparation of the plan by the  
100 regional planning agency. County comments on municipal

779999

4/26/2007 5:08:07 PM

Amendment No.

101 comprehensive plan amendments shall be primarily in the context  
102 of the relationship and effect of the proposed plan amendments  
103 on the county plan. Municipal comments on county plan amendments  
104 shall be primarily in the context of the relationship and effect  
105 of the amendments on the municipal plan. State agency comments  
106 may include technical guidance on issues of agency jurisdiction  
107 as it relates to the requirements of this part. Such comments  
108 shall clearly identify issues of regional or statewide  
109 importance that, if not resolved, may result in an agency  
110 challenge to the amendment. Agencies and local governments must  
111 transmit their comments to the affected local government such  
112 that they are received by the local government not later than  
113 thirty days from the date on which the agency or government  
114 received the amendment or amendments.

115 (5) ADOPTION OF COMPREHENSIVE PLAN AMENDMENT FOR PILOT  
116 AREAS.--

117 (a) The local government shall hold its second public  
118 hearing, which shall be a hearing on whether to adopt one or  
119 more comprehensive plan amendments, on a weekday at least five  
120 days after the day the second advertisement is published  
121 pursuant to the requirements of chapters 125 or 166. Adoption of  
122 comprehensive plan amendments must be by ordinance and requires  
123 an affirmative vote of a majority of the members of the  
124 governing body present at the second hearing.

125 (b) All comprehensive plan amendments adopted by the  
126 governing body along with the supporting data and analysis shall  
127 be transmitted within ten days of the second public hearing to

779999

4/26/2007 5:08:07 PM

Amendment No.

128 | the state land planning agency and any other agency or local  
129 | government that provided timely comments under subsection 4(b).

130 | (6) ADMINISTRATIVE CHALLENGES TO PLAN AMENDMENTS FOR PILOT  
131 | PROGRAM.--

132 | (a) Any "affected person" as defined in s. 163.3184(1)(a)  
133 | may file a petition with the Division of Administrative Hearings  
134 | pursuant to ss. 120.569 and 120.57, with a copy served on the  
135 | affected local government, to request a formal hearing to  
136 | challenge whether the amendments are "in compliance" as defined  
137 | in s. 163.3184(1)(b). This petition must be filed with the  
138 | Division within 30 days after the local government adopts the  
139 | amendment. The state land planning may intervene in a proceeding  
140 | instituted by an affected person.

141 | (b) The state land planning agency may file a petition  
142 | with the Division of Administrative Hearings pursuant to ss.  
143 | 120.569 and 120.57, with a copy served on the affected local  
144 | government, to request a formal hearing. This petition must be  
145 | filed with the Division within 30 days after the state land  
146 | planning agency notifies the local government that the plan  
147 | amendment package is complete. For purposes of this section, an  
148 | amendment shall be deemed complete if it contains a full,  
149 | executed copy of the adoption ordinance or ordinances; in the  
150 | case of a text amendment, a full copy of the amended language in  
151 | legislative format with new words inserted in the text  
152 | underlined, and words to be deleted lined through with hyphens;  
153 | in the case of a future land use map amendment, a copy of the  
154 | future land use map clearly depicting the parcel, its existing  
155 | future land use designation, and its adopted designation; and a

779999

4/26/2007 5:08:07 PM

Amendment No.

156 copy of any data and analyses the local government deems  
157 appropriate. The state land planning agency shall notify the  
158 local government of any deficiencies within five working days of  
159 receipt of amendment package.

160 (c) The state land planning agency challenge shall be  
161 limited to issues of regional or statewide importance as they  
162 relate to consistency with the requirements of this part. The  
163 agency's challenge shall be limited to those issues raised in  
164 the comments provided by the reviewing agencies pursuant to  
165 subsection (4) (a). The agency may challenge a plan amendment  
166 that has substantially changed from the version on which the  
167 agencies provided comments, regardless of specific comments  
168 provided to the local government if such change will result in  
169 an impact to issues of regional or statewide importance that the  
170 proposed amendment did not impact.

171 (d) An administrative law judge shall hold a hearing in  
172 the affected local jurisdiction. The local government's  
173 determination that the amendment is "in compliance" is presumed  
174 to be correct and shall be sustained unless it is shown by a  
175 preponderance of the evidence that the amendment is not "in  
176 compliance."

177 (e) If the administrative law judge recommends that the  
178 amendment be found not in compliance, the judge shall submit the  
179 recommended order to the Administration Commission for final  
180 agency action. The Administration Commission shall enter a final  
181 order within 45 days after its receipt of the recommended order.

779999

4/26/2007 5:08:07 PM

Amendment No.

182       (f) If the administrative law judge recommends that the  
183 amendment be found in compliance, the judge shall submit the  
184 recommended order to the state land planning agency.

185       1. If the state land planning agency determines that the  
186 plan amendment should be found not in compliance, the agency  
187 shall refer, within 30 days of receipt of the recommended order,  
188 the recommended order and its determination to the  
189 Administration Commission for final agency action. If the  
190 commission determines that the amendment is not in compliance,  
191 it may sanction the local government as set forth in s.  
192 163.3184(11).

193       2. If the state land planning agency determines that the  
194 plan amendment should be found in compliance, the agency shall  
195 enter its final order not later than 30 days from receipt of the  
196 recommended order.

197       (g) An amendment adopted under the expedited provisions of  
198 this section shall not become effective until 31 days after  
199 adoption. If timely challenged, an amendment shall not become  
200 effective until the state land planning agency or the  
201 Administration Commission enters a final order determining the  
202 adopted amendment to be in compliance.

203       (h) Parties to a proceeding under this section may enter  
204 into compliance agreements using the process in s. 163.3184(16).  
205 Any remedial amendment adopted pursuant to a settlement  
206 agreement shall be provided to the agencies and governments  
207 listed in paragraph (4)(a).

208       (7) APPLICABILITY OF PILOT PROGRAM IN CERTAIN LOCAL  
209 GOVERNMENTS.--Local governments and specific areas that have  
779999

4/26/2007 5:08:07 PM



Amendment No.

210 been designated for alternate review process pursuant to ss.  
211 163.3246 and 163.3184(17) and (18) are not subject to this  
212 section.

213 (8) RULEMAKING AUTHORITY FOR PILOT PROGRAM.--Agencies  
214 shall not promulgate rules to implement this pilot program.

215 (9) REPORT.--The Office of Program Policy Analysis and  
216 Government Accountability shall submit to the Governor, the  
217 President of the Senate, and the Speaker of the House of  
218 Representatives by December 1, 2008, a report and  
219 recommendations for implementing a statewide program that  
220 addresses the legislative findings in subsection (1) in areas  
221 that meet urban criteria. The Office of Program Policy Analysis  
222 and Government Accountability in consultation with the state  
223 land planning agency shall develop the report and  
224 recommendations with input from other state and regional  
225 agencies, local governments and interest groups. Additionally,  
226 the office shall review local and state actions and  
227 correspondence relating to the pilot program to identify issues  
228 of process and substance in recommending changes to the pilot  
229 program. At a minimum, the report and recommendations shall  
230 include the following:

231 (a) Identification of local governments beyond those  
232 participating in the pilot program that should be subject to the  
233 alternative expedited state review process. The report may  
234 recommend that pilot program local governments may no longer be  
235 appropriate for such alternative review process.

779999

4/26/2007 5:08:07 PM

Amendment No.

236        (b) Changes to the alternative expedited state review  
237 process for local comprehensive plan amendments identified in  
238 the pilot program.

239        (c) Criteria for determining issues of regional or  
240 statewide importance that are to be protected in the alternative  
241 state review process.

242        (d) In preparing the report and recommendations, the  
243 Office of Program Policy Analysis and Government Accountability  
244 shall consult with the state land planning agency, the  
245 Department of Transportation, the Department of Environmental  
246 Protection, and the regional planning agencies in identifying  
247 highly developed local governments to participate in the  
248 alternative expedited state review process. The Office of  
249 Program Policy Analysis and Governmental Accountability shall  
250 also solicit citizen input in the potentially affected areas and  
251 consult with the affected local governments, and stakeholder  
252 groups.

253        Section 9. There is hereby established four full-time  
254 equivalent planning positions and appropriated rate in the  
255 amount of \$220,000 and salary budget authority in the amount of  
256 \$326,620 from the Grants and Donations Trust Fund in the  
257 Division of Community Planning for the purposes of providing  
258 technical assistance and advice to state and local governments  
259 in their ability to respond to growth-related issues, and to  
260 ensure compliance with chapter 163 comprehensive planning  
261 issues.

262  
263 ===== T I T L E   A M E N D M E N T =====

779999

4/26/2007 5:08:07 PM

Amendment No.

264           Remove lines 51-56 and insert:  
265   applicability of program provisions; requiring the Office of  
266   Program Policy Analysis and Governmental Accountability to  
267   evaluate the pilot program and prepare and submit a report to  
268   the Governor and Legislature; providing report requirements;  
269   establishing four full-time equivalent planning positions;  
270   providing an appropriation; amending s. 380.06, F.S.; extending