

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Community Affairs

BILL: SB 832

INTRODUCER: Senator Simpson

SUBJECT: Sector Plans

DATE: March 30, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stearns	Yeatman	CA	Pre-meeting
2.		EP	
3.		FP	

I. Summary:

SB 832 substantially revises the sector planning process. The bill requires comprehensive plan amendments related to an amendment of a sector plan to undergo the State Coordinated Review Process. The bill provides that the provisions of the sector plan law supersede conflicting provisions of ch. 163, F.S. The bill shifts a requirement to forecast the costs, locations, phasing or staging, or means of financing transportation or other public facilities from the long-term master plan phase of the sector planning process to the detailed specific area plan phase. The bill authorizes conservation easements associated with a sector plan to be finalized at a later stage of the development process. The bill authorizes a developer or local government to request a pre-application conference in regard to a detailed specific area plan and creates time limits for local governments and reviewing agencies to subsequently enumerate agreed upon assumptions and methodologies regarding the proposed project. The bill authorizes a water management district to issue a consumptive use permit for a longer-than-normal period of time under certain circumstances.

II. Present Situation:

Originally authorized as a pilot program in 1998, the Legislature enacted s. 163.3245, F.S., in 2011 to permit all local governments to adopt a sector plan into their comprehensive plans. The Legislature stated that the sector planning process is “designed to promote and encourage long-term planning for conservation, development and agriculture on a landscape scale as well as facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors.”

Sector plans must be a minimum of 15,000 acres and may not be created within a designated area of critical state concern.¹ The sector planning process requires two levels of planning:²

- Adoption of a long-term master plan (formerly a “conceptual long-term buildup overlay”) for the entire planning area as an amendment to the local comprehensive plan adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S., and
- Adoption by a local development order of two or more detailed specific area plans (DSAP) that implement the long-term master plan and within which development of regional impact (DRI) requirements are waived.

The law allows a local government, prior to preparing a sector plan, to request a scoping meeting with a developer proposing a sector plan.³ The scoping meeting must be noticed and open to the public and is conducted by the applicable RPC with affected local governments and certain state agencies. If a scoping meeting is conducted, the RPC must make written recommendations to the state land planning agency (the Department of Economic Opportunity) and affected local governments on the issues requested by the local government.

Section 163.3245, F.S., specifies that the long-term master plan must include maps, illustrations, and text supported by data and analysis to address and identify:

- A framework map that, at a minimum, generally depicts conservation land use, identifies allowed uses in the planning area, specifies maximum and minimum densities and intensities of use, and provides the general framework for the development pattern;
- A general identification of the water supplies needed and available sources of water, including water resource development and water supply development projects, and water conservation measures needed to meet the projected demand of the future land uses in the long-term master plan;
- A general identification of the transportation facilities to serve the future land uses in the long-term master plan;
- A general identification of other regionally significant public facilities necessary to support the future land uses;
- A general identification of regionally significant natural resources within the planning area and policies setting forth the procedures for protection or conservation of specific resources consistent with the overall conservation and development strategy for the planning area;
- General principles and guidelines addressing, among other things, future land uses, the use of lands identified for permanent preservation through recordation of conservation easements, achieving a healthy environment, limiting urban sprawl, and providing housing types; and
- Identification of general procedures and policies to facilitate intergovernmental coordination to address extrajurisdictional impacts from the future land uses.⁴

The two level planning process provides that a long-term master plan and a DSAP may be based upon a planning period longer than the planning period of the local comprehensive plan.⁵ Both the long-term master plan and the DSAP must specify the projected population within the

¹ Section 163.3245(1), F.S.

² Section 163.3245(3), F.S.

³ Section 163.3245(2), F.S.

⁴ Section 163.3245(3)(a), F.S.

⁵ Section 163.3245(3)(a) and (b), F.S.

planning area during the chosen planning period. A long-term master plan may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period. Neither the long-term master plan nor a DSAP are required to demonstrate need based upon projected population growth or on any other basis.

The state land planning agency must consult with certain state and governmental agencies when it is reviewing a long-term master plan.⁶

When a local government issues a development order approving a DSAP, it must provide copies of the order to the state land planning agency and the owner or developer of the property affected by the order according to the rules established for DRI development orders.⁷ This order may be appealed by the owner, developer, or state land planning agency to the Florida Land and Water Adjudicatory Commission (Governor and Cabinet) by filing a petition alleging that the DSAP is not consistent with the long-term master plan or the local government's comprehensive plan.⁸ The administrative proceeding for review of a DSAP is to be conducted according to s. 380.07(6), F.S., and the commission must grant or deny permission to develop according to the long-term master plan and may attach conditions or restrictions to its decision.

If a development order is challenged by an aggrieved and adversely affected party in a judicial proceeding pursuant to s. 163.3215, F.S., the state land planning agency, if it has received notice, must dismiss its appeal to the commission and may intervene in the pending judicial proceeding.⁹

Once a long-term master plan becomes legally effective, s. 163.3245, F.S., requires the plan to be connected to any long-range transportation plan developed by a metropolitan planning organization and the regional water supply plan.¹⁰ A water management district also may issue consumptive use permits for durations commensurate with the long-term master plan or DSAP in considering the ability of the master plan area to contribute to regional water supply availability and the need to maximize reasonable-beneficial use of the water resource. The permitting criteria must be applied based upon the projected population, the approved densities and intensities of use and their distribution in the long-term master plan, but the allocation of the water may be phased over the duration of the permit to reflect actual projected needs.

When a DSAP becomes effective for a portion of the planning area governed by a long-term master plan, developments within the DSAP are not subject to DRI review.¹¹ A developer may enter into a development agreement with the local government.¹² The duration of the agreement may be through the planning period of the long-term master plan or the DSAP.¹³

Property owners within the planning area of a proposed long-term master plan may withdraw their consent to the master plan prior to adoption by the local government, and the parcels

⁶ Section 163.3245(3)(c), F.S.

⁷ Section 163.3245(3)(e), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ Section 163.3245(4), F.S.

¹¹ Section 163.3245(5), F.S.

¹² Section 163.3245(7), F.S.

¹³ *Id.*

withdrawn will not be subject to the long-term master plan, any DSAP, or the exemption from DRI review.¹⁴ After the local government adopts the long-term master plan, a property owner may withdraw from the master plan only if the local government approves by adopting a plan amendment.¹⁵

Existing agricultural, silvicultural, and other natural resource activities are protected by s. 163.3245, F.S., within a long-term master plan or a DSAP.¹⁶ The law also protects properties against downzoning, unit density reduction, or intensity reduction in the DSAP until the buildup date.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 163.3184, F.S., to require amendments to comprehensive plans related to amendments to adopted sector plans to undergo review pursuant to the State Coordinated Review Process.

Section 2 amends s. 163.3245, F.S., to update the sector plan law. The bill inserts language stating that the sector plan law is in recognition of the benefits of long-term visions and long-range plans.

The bill provides that the provisions of s. 163.3245(3)(a) and (b), F.S., (related to required components of the long-term master plan and the DSAP, respectively) supersede any provisions of ch. 163, F.S., that are either inconsistent with paragraph (a) or (b) or are expressly superseded by the law.

The bill inserts the words “if any” related to requirements that a long-term master plan and a DSAP identify water supplies needed by the plan and available sources of water.

The bill states that long-term master plans and DSAPs need not include procedures and policies to facilitate intergovernmental coordination if such coordination is addressed in other comprehensive plan elements.

The bill states that a long-term master plan is not required to project the costs, locations, phasing or staging, or means of financing transportation or other public facilities needed to support the future land uses with the planning area, nor is it required to prescribe application or review procedures for a DSAP that would differ from the local government’s generally applicable requirements for local development orders except as required by s. 163.3245, F.S. However, the bill requires these planning elements to be provided as part of the DSAP and included in the five-year capital improvement schedule of the affected local government.

The bill allows required conservation easements associated with a long-term master plan to become effective at either the effective date of the final DSAP or the effective date of the environmental permits necessary to develop lands within the final DSAP.

¹⁴ Section 163.3245(8), F.S.

¹⁵ *Id.*

¹⁶ Section 163.3245(9), F.S.

¹⁷ Section 163.3245(5)(d), F.S.

The bill authorizes a developer to contact the local government with jurisdiction over a proposed development to request a pre-application conference in regard to a DSAP. Before the conference, the developer must provide the local government with preliminary information regarding the proposed DSAP, including the project location, the type and magnitude of land uses, preliminary site and environmental information, preliminary phasing and buildout dates, and specific methodology proposals.

Either the applicant or the local government may request that other state and regional agencies participate in the conference. Participating agencies must identify the level of information required for purposes of review of the proposed development and the types of permits issued by, and the permit issuance procedures of, the respective agencies. The level-of-service standards, standards for determining significant impacts, and mitigation standards and procedures required in the transportation methodology must be the same as those used to evaluate other developments in that jurisdiction.

The local government must document the findings and agreements made by the participants of the conference within 14 days of the meeting, and must include a summary of all assumptions and methodologies agreed upon at the conference. All other participants in the meeting then have an additional 14 days to comment, agree, or disagree in writing with the summary. Local governments and participating agencies are prohibited from subsequently objecting to any assumptions and methodologies that are agreed upon in this process, unless subsequent changes to the project or information obtained during the review invalidate those assumptions and methodologies.

A DSAP applicant must transmit copies of the application to the reviewing agencies specified in s. 163.3184(1)(c), F.S., for review and comment as to whether the DSAP is consistent with the comprehensive plan and the long-term master plan. Any comments from the reviewing agencies must be submitted in writing to the local government with jurisdiction and to the state land planning agency within 30 days.

Appeals to the Florida Land and Water Adjudicatory Commission of development orders that approve a DSAP must be by petition alleging with particularity that the DSAP is not consistent with the comprehensive plan or the long-term master plan.

Once a long-term master plan becomes legally effective, all the natural resources identified in the long-term master plan as regionally significant natural resources for preservation or conservation must be considered regionally significant natural resources for purposes of permitting pursuant to ch. 373, F.S.

The bill specifies that the adoption of a long-term master plan or DSAP does not limit the right to establish new agricultural or silvicultural uses that are similar to existing uses and consistent with the long-term master plans approved pursuant to s. 163.3245, F.S.

The bill authorizes a water management district to issue to an applicant, upon request, a consumptive use permit for a period of time commensurate with an approved master development order if the order was issued under s. 380.06(21), F.S., by a county designated as a

rural area of opportunity under s. 288.0656, F.S., and if the development is not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), F.S. The bill provides requirements for how the water management district will implement this provision. The bill states that this authority does not supersede the public interest test established in s. 373.223, F.S.

The bill provides that the more specific provisions of s. 163.3245, F.S., shall supersede the generally applicable provisions of ch. 163, F.S., which would otherwise apply.

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Economic Opportunity notes in its analysis: “There will be some cost associated with the conference and review of documents resulting from the conference.

The cost may be immaterial and would be based on the number of applicants requesting the conference.”

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Economic Opportunity noted the following in its analysis: “It is unclear what rights (if any) a participant in a pre-application conference for a detailed specific area plan has if

it disagrees with the local government's documentation of the conference, including the findings, agreements, and summary.”

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3184 and 163.3245.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
