

By the Committees on Rules; and Community Affairs; and Senator Ingoglia

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1 A bill to be entitled
2 An act relating to land use and development
3 regulations; amending s. 163.3177, F.S.; revising the
4 planning periods that must be included in a
5 comprehensive plan; amending s. 163.3191, F.S.;
6 requiring local governments to determine if plan
7 amendments are necessary to reflect a certain minimum
8 planning period; specifying requirements for a certain
9 notification; requiring, rather than encouraging, a
10 local government to comprehensively evaluate and
11 update its comprehensive plan to reflect changes in
12 local conditions; requiring that updates to certain
13 elements of the comprehensive plan be processed in the
14 same plan amendment cycle; prohibiting a local
15 government from initiating or adopting any publicly
16 initiated plan amendments to its comprehensive plan
17 under certain circumstances; providing applicability;
18 prohibiting a certain denial of plan amendments from
19 being based on the failure of a local government to
20 update its comprehensive plan; requiring the state
21 land planning agency to provide population projections
22 if a local government fails to update its
23 comprehensive plan; requiring the local government to
24 update its comprehensive plan within a specified
25 timeframe after receiving the population projections
26 and to transmit the update within a specified
27 timeframe; requiring the state land planning agency to
28 establish a certain timeline if such update is not in
29 compliance; authorizing the local government to seek

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30 approval from the state land planning agency to
31 process publicly initiated plan amendments under
32 certain circumstances; authorizing the local
33 government to provide certain alternative population
34 projections under certain circumstances; amending s.
35 163.3202, F.S.; revising exceptions to applicability
36 of land development regulations relating to single-
37 family or two-family dwelling building design
38 elements; deleting the definition of the terms
39 "planned unit development" or "master planned
40 community"; amending s. 189.031, F.S.; precluding an
41 independent special district from complying with the
42 terms of certain development agreements under certain
43 circumstances; requiring a newly elected or appointed
44 governing body to review, within a certain timeframe,
45 certain agreements and vote on whether to seek
46 readoption of such agreement; providing retroactive
47 applicability; providing for future expiration;
48 amending s. 189.08, F.S.; conforming a cross-
49 reference; providing effective dates.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Paragraph (a) of subsection (5) of section
54 163.3177, Florida Statutes, is amended to read:

55 163.3177 Required and optional elements of comprehensive
56 plan; studies and surveys.—

57 (5) (a) Each local government comprehensive plan must
58 include at least two planning periods, one covering at least the

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59 first 10-year ~~5-year~~ period occurring after the plan's adoption
60 and one covering at least a 20-year ~~10-year~~ period. Additional
61 planning periods for specific components, elements, land use
62 amendments, or projects shall be permissible and accepted as
63 part of the planning process.

64 Section 2. Section 163.3191, Florida Statutes, is amended
65 to read:

66 163.3191 Evaluation and appraisal of comprehensive plan.—

67 (1) At least once every 7 years, each local government
68 shall evaluate its comprehensive plan to determine if plan
69 amendments are necessary to reflect a minimum planning period of
70 at least 10 years as provided in s. 163.3177(5) or to reflect
71 changes in state requirements in this part since the last update
72 of the comprehensive plan, and notify the state land planning
73 agency as to its determination. The notification must include a
74 separate affidavit, signed by the chair of the governing body of
75 the county or the mayor of the municipality, attesting that all
76 elements of its comprehensive plan comply with this subsection.
77 The affidavit must also include a certification that the adopted
78 comprehensive plan contains the minimum planning period of 10
79 years, as provided in s. 163.3177(5), and must cite the source
80 and date of the population projections used in establishing the
81 10-year planning period.

82 (2) If the local government determines amendments to its
83 comprehensive plan are necessary to reflect changes in state
84 requirements, the local government must ~~shall~~ prepare and
85 transmit within 1 year such plan amendment or amendments for
86 review pursuant to s. 163.3184.

87 (3) Local governments shall ~~are encouraged to~~

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88 comprehensively evaluate and, as necessary, update comprehensive
89 plans to reflect changes in local conditions. Plan amendments
90 transmitted pursuant to this section must ~~shall~~ be reviewed
91 pursuant to s. 163.3184(4). Updates to the required elements and
92 optional elements of the comprehensive plan must be processed in
93 the same plan amendment cycle.

94 (4) If a local government fails to submit the its letter
95 and affidavit prescribed by subsection (1) or to transmit the
96 update to its plan pursuant to subsection (3) within 1 year
97 after the date the letter was transmitted to the state land
98 planning agency (2), it may not initiate or adopt any publicly
99 initiated plan amendments to amend its comprehensive plan until
100 such time as it complies with this section, unless otherwise
101 required by general law. This prohibition on plan amendments
102 does not apply to privately initiated plan amendments. The
103 failure of the local government to timely update its plan may
104 not be the basis for the denial of privately initiated
105 comprehensive plan amendments.

106 (5) If it is determined that a local government has failed
107 to update its comprehensive plan pursuant to this section, the
108 state land planning agency must provide the required population
109 projections that must be used by the local government to update
110 the comprehensive plan. The local government shall initiate an
111 update to its comprehensive plan within 3 months following the
112 receipt of the population projections and must transmit the
113 update within 12 months. If the state land planning agency finds
114 the update is not in compliance, it must establish the timeline
115 to address the deficiencies, not to exceed an additional 12-
116 month period. If the update is challenged by a third party, the

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117 local government may seek approval from the state land planning
118 agency to process publicly initiated plan amendments that are
119 necessary to accommodate population growth during the pendency
120 of the litigation. During the update process, the local
121 government may provide alternative population projections based
122 on professionally accepted methodologies, but only if those
123 population projections exceed the population projections
124 provided by the state land planning agency and only if the
125 update is completed within the timeframe set forth in this
126 subsection.

127 (6) The state land planning agency may not adopt rules to
128 implement this section, other than procedural rules or a
129 schedule indicating when local governments must comply with the
130 requirements of this section.

131 Section 3. Paragraphs (a) and (b) of subsection (5) of
132 section 163.3202, Florida Statutes, are amended to read:

133 163.3202 Land development regulations.—

134 (5) (a) Land development regulations relating to building
135 design elements may not be applied to a single-family or two-
136 family dwelling unless:

137 1. The dwelling is listed in the National Register of
138 Historic Places, as defined in s. 267.021(5); is located in a
139 National Register Historic District; or is designated as a
140 historic property or located in a historic district, under the
141 terms of a local preservation ordinance;

142 2. The regulations are adopted in order to implement the
143 National Flood Insurance Program;

144 3. The regulations are adopted pursuant to and in
145 compliance with chapter 553;

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146 4. The dwelling is located in a community redevelopment
147 area, as defined in s. 163.340(10);

148 5. The regulations are required to ensure protection of
149 coastal wildlife in compliance with s. 161.052, s. 161.053, s.
150 161.0531, s. 161.085, s. 161.163, or chapter 373; or

151 ~~6. The dwelling is located in a planned unit development or~~
152 ~~master planned community created pursuant to a local ordinance,~~
153 ~~resolution, or other final action approved by the local~~
154 ~~governing body; or~~

155 ~~7.~~ The dwelling is located within the jurisdiction of a
156 local government that has a design review board or an
157 architectural review board created before January 1, 2020.

158 (b) For purposes of this subsection, the term:

159 ~~1.~~ "building design elements" means the external building
160 color; the type or style of exterior cladding material; the
161 style or material of roof structures or porches; the exterior
162 nonstructural architectural ornamentation; the location or
163 architectural styling of windows or doors; the location or
164 orientation of the garage; the number and type of rooms; and the
165 interior layout of rooms. The term does not include the height,
166 bulk, orientation, or location of a dwelling on a zoning lot; or
167 the use of buffering or screening to minimize potential adverse
168 physical or visual impacts or to protect the privacy of
169 neighbors.

170 ~~2. "Planned unit development" or "master planned community"~~
171 ~~means an area of land that is planned and developed as a single~~
172 ~~entity or in approved stages with uses and structures~~
173 ~~substantially related to the character of the entire~~
174 ~~development, or a self-contained development in which the~~

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175 ~~subdivision and zoning controls are applied to the project as a~~
176 ~~whole rather than to individual lots.~~

177 Section 4. Effective upon becoming a law, subsection (7) is
178 added to section 189.031, Florida Statutes, to read:

179 189.031 Legislative intent for the creation of independent
180 special districts; special act prohibitions; model elements and
181 other requirements; local general-purpose government/Governor
182 and Cabinet creation authorizations.—

183 (7) REVIEW OF DEVELOPMENT AGREEMENTS.—An independent
184 special district is precluded from complying with the terms of
185 any development agreement, or any other agreement for which the
186 development agreement serves in whole or part as consideration,
187 which is executed within 3 months preceding the effective date
188 of a law modifying the manner of selecting members of the
189 governing body of the independent special district from election
190 to appointment or from appointment to election. The newly
191 elected or appointed governing body of the independent special
192 district shall review within 4 months of taking office any
193 development agreement or any other agreement for which the
194 development agreement serves in whole or part as consideration
195 and shall, after such review, vote on whether to seek readoption
196 of such agreement. This subsection shall apply to any
197 development agreement that is in effect on, or is executed
198 after, the effective date of this section. This subsection
199 expires July 1, 2028, unless reviewed and saved from repeal
200 through reenactment by the Legislature.

201 Section 5. Paragraph (a) of subsection (2) of section
202 189.08, Florida Statutes, is amended to read:

203 189.08 Special district public facilities report.—

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204 (2) Each independent special district shall submit to each
205 local general-purpose government in which it is located a public
206 facilities report and an annual notice of any changes. The
207 public facilities report shall specify the following
208 information:

209 (a) A description of existing public facilities owned or
210 operated by the special district, and each public facility that
211 is operated by another entity, except a local general-purpose
212 government, through a lease or other agreement with the special
213 district. This description shall include the current capacity of
214 the facility, the current demands placed upon it, and its
215 location. This information shall be required in the initial
216 report and updated every 7 years at least 12 months before the
217 submission date of the evaluation and appraisal notification
218 letter of the appropriate local government required by s.
219 163.3191. The department shall post a schedule on its website,
220 based on the evaluation and appraisal notification schedule
221 prepared pursuant to s. 163.3191(6) ~~s. 163.3191(5)~~, for use by a
222 special district to determine when its public facilities report
223 and updates to that report are due to the local general-purpose
224 governments in which the special district is located.

225 Section 6. Except as otherwise expressly provided in this
226 act and except for this section, which shall take effect upon
227 becoming a law, this act shall take effect July 1, 2023.