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1
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; amending s. 163.3208, F.S.; revising the
39 definition of the term "distribution electric
40 substation"; revising the substation approval process
41 to include applications for changes to existing
42 electric substations; amending s. 189.031, F.S.;
43 precluding an independent special district from
44 complying with the terms of certain development
45 agreements under certain circumstances; requiring a
46 newly elected or appointed governing body to review,
47 within a certain timeframe, certain agreements and
48 vote on whether to seek readoption of such agreement;
49 providing retroactive applicability; providing for
50 future expiration; amending s. 189.08, F.S.;
51 conforming a cross-reference; providing effective
52 dates.

53
54 Be It Enacted by the Legislature of the State of Florida:

55
56 Section 1. Paragraph (a) of subsection (5) of section
57 163.3177, Florida Statutes, is amended to read:

58 163.3177 Required and optional elements of comprehensive

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59 plan; studies and surveys.—

60 (5) (a) Each local government comprehensive plan must
61 include at least two planning periods, one covering at least the
62 first 10-year ~~5-year~~ period occurring after the plan's adoption
63 and one covering at least a 20-year ~~10-year~~ period. Additional
64 planning periods for specific components, elements, land use
65 amendments, or projects shall be permissible and accepted as
66 part of the planning process.

67 Section 2. Section 163.3191, Florida Statutes, is amended
68 to read:

69 163.3191 Evaluation and appraisal of comprehensive plan.—

70 (1) At least once every 7 years, each local government
71 shall evaluate its comprehensive plan to determine if plan
72 amendments are necessary to reflect a minimum planning period of
73 at least 10 years as provided in s. 163.3177(5) or to reflect
74 changes in state requirements in this part since the last update
75 of the comprehensive plan, and notify the state land planning
76 agency as to its determination. The notification must include a
77 separate affidavit, signed by the chair of the governing body of
78 the county or the mayor of the municipality, attesting that all
79 elements of its comprehensive plan comply with this subsection.
80 The affidavit must also include a certification that the adopted
81 comprehensive plan contains the minimum planning period of 10
82 years, as provided in s. 163.3177(5), and must cite the source
83 and date of the population projections used in establishing the
84 10-year planning period.

85 (2) If the local government determines amendments to its
86 comprehensive plan are necessary to reflect changes in state
87 requirements, the local government must ~~shall~~ prepare and

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88 transmit within 1 year such plan amendment or amendments for
89 review pursuant to s. 163.3184.

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

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

109 (5) If it is determined that a local government has failed
110 to update its comprehensive plan pursuant to this section, the
111 state land planning agency must provide the required population
112 projections that must be used by the local government to update
113 the comprehensive plan. The local government shall initiate an
114 update to its comprehensive plan within 3 months following the
115 receipt of the population projections and must transmit the
116 update within 12 months. If the state land planning agency finds

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117 the update is not in compliance, it must establish the timeline
118 to address the deficiencies, not to exceed an additional 12-
119 month period. If the update is challenged by a third party, the
120 local government may seek approval from the state land planning
121 agency to process publicly initiated plan amendments that are
122 necessary to accommodate population growth during the pendency
123 of the litigation. During the update process, the local
124 government may provide alternative population projections based
125 on professionally accepted methodologies, but only if those
126 population projections exceed the population projections
127 provided by the state land planning agency and only if the
128 update is completed within the timeframe set forth in this
129 subsection.

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

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

136 163.3202 Land development regulations.—

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

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

145 2. The regulations are adopted in order to implement the

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146 National Flood Insurance Program;

147 3. The regulations are adopted pursuant to and in
148 compliance with chapter 553;

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

151 5. The regulations are required to ensure protection of
152 coastal wildlife in compliance with s. 161.052, s. 161.053, s.
153 161.0531, s. 161.085, s. 161.163, or chapter 373;

154 6. The dwelling is located in a planned unit development or
155 master planned community created pursuant to a local ordinance,
156 resolution, or other final action approved by the local
157 governing body before July 1, 2023; or

158 7. The dwelling is located within the jurisdiction of a
159 local government that has a design review board or an
160 architectural review board created before January 1, 2020.

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

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

173 2. "Planned unit development" or "master planned community"
174 means an area of land that is planned and developed as a single

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175 entity or in approved stages with uses and structures
176 substantially related to the character of the entire
177 development, or a self-contained development in which the
178 subdivision and zoning controls are applied to the project as a
179 whole rather than to individual lots.

180 Section 4. Section 163.3208, Florida Statutes, is amended
181 to read:

182 163.3208 Substation approval process.—

183 (1) It is the intent of the Legislature to maintain,
184 encourage, and ensure adequate and reliable electric
185 infrastructure in the state. It is essential that electric
186 infrastructure be constructed and maintained in various
187 locations in order to ensure the efficient and reliable delivery
188 of electric service. Electric infrastructure should be
189 constructed, to the maximum extent practicable, to achieve
190 compatibility with adjacent and surrounding land uses, and the
191 criteria included in this section are intended to balance the
192 need for electricity with land use compatibility.

193 (2) The term "~~distribution~~ electric substation" means an
194 electric substation, including accessory administration or
195 maintenance buildings and related accessory uses and structures,
196 which takes electricity from the transmission grid and converts
197 it to another voltage or a lower voltage so it can be
198 distributed to customers ~~in the local area on the local~~
199 ~~distribution grid~~ through one or more ~~distribution~~ lines ~~less~~
200 ~~than 69 kilovolts in size.~~

201 (3) Electric substations are a critical component of
202 electric transmission and distribution. Except for substations
203 in s. 163.3205(2)(c), local governments may adopt and enforce

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204 reasonable land development regulations for new and existing
205 ~~distribution~~ electric substations, addressing only setback,
206 landscaping, buffering, screening, lighting, and other aesthetic
207 compatibility-based standards. Vegetated buffers or screening
208 beneath aerial access points to the substation equipment shall
209 not be required to have a mature height in excess of 14 feet.

210 (4) New and existing ~~distribution~~ electric substations
211 shall be a permitted use in all land use categories in the
212 applicable local government comprehensive plan and zoning
213 districts within a utility's service territory except those
214 designated as preservation, conservation, or historic
215 preservation on the future land use map or duly adopted
216 ordinance. If a local government has not adopted reasonable
217 standards for substation siting in accordance with subsection
218 (3), the following standards shall apply to new ~~distribution~~
219 electric substations:

220 (a) In nonresidential areas, the substation must comply
221 with the setback and landscaped buffer area criteria applicable
222 to other similar uses in that district, if any.

223 (b) Unless the local government approves a lesser setback
224 or landscape requirement, in residential areas, a setback of up
225 to 100 feet between the substation property boundary and
226 permanent equipment structures shall be maintained as follows:

227 1. For setbacks between 100 feet and 50 feet, an open green
228 space shall be formed by installing native landscaping,
229 including trees and shrub material, consistent with the relevant
230 local government's land development regulations. Substation
231 equipment shall be protected by a security fence consistent with
232 the relevant local government's land development regulations.

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233 2. For setbacks of less than 50 feet, a buffer wall 8 feet
234 high or a fence 8 feet high with native landscaping consistent
235 with the relevant local government's regulations shall be
236 installed around the substation.

237 (5) If the application for a proposed ~~distribution~~ electric
238 substation or for changes to an existing electric substation
239 demonstrates that the substation design is consistent with the
240 local government's applicable setback, landscaping, buffering,
241 screening, and other aesthetic compatibility-based standards,
242 the application for development approval for or changes to the
243 substation shall be approved.

244 (6) (a) This paragraph applies ~~may apply~~ to the proposed
245 placement or construction of a new ~~distribution~~ electric
246 substation within a residential area. Before ~~Prior to~~ submitting
247 an application for the location of a new ~~distribution~~ electric
248 substation in residential areas, the utility shall consult with
249 the local government regarding the selection of a site. The
250 utility shall provide information regarding the utility's
251 preferred site and as many as three alternative available sites,
252 including sites within nonresidential areas, that are
253 technically and electrically reasonable for the load to be
254 served, if the local government deems that the siting of a new
255 ~~distribution~~ electric substation warrants this additional review
256 and consideration. The final determination on the site
257 application as to the preferred and alternative sites shall be
258 made solely by the local government within 90 days of
259 presentation of all the necessary and required information on
260 the preferred site and on the alternative sites. In the event
261 the utility and the local government are unable to reach

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262 agreement on an appropriate location, the substation site
263 selection shall be submitted to mediation conducted pursuant to
264 ss. 44.401-44.406, unless otherwise agreed to in writing by the
265 parties, and the mediation shall be concluded within 30 days
266 unless extended by written agreement of the parties. The 90-day
267 time period for the local government to render a final decision
268 on the site application is tolled from the date a notice of
269 intent to mediate the site selection issue is served on the
270 utility or local government, until the mediation is concluded,
271 terminated, or an impasse is declared. The local government and
272 utility may agree to waive or extend this 90-day time period.
273 Upon rendition of a final decision of the local government, a
274 person may pursue available legal remedies in accordance with
275 law, and the matter shall be considered on an expedited basis.

276 (b) A local government's land development and construction
277 regulations for new ~~distribution~~ electric substations or for
278 changes to existing electric substations and the local
279 government's review of an application for the placement or
280 construction of a new ~~distribution~~ electric substation or for
281 changes to an existing electric substation shall only address
282 land development, zoning, or aesthetic compatibility-based
283 issues. In such local government regulations or review, a local
284 government may not require information or evaluate a utility's
285 business decisions about its service, customer demand for its
286 service, or quality of its service to or from a particular area
287 or site, unless the utility voluntarily offers this information
288 to the local government.

289 (7) Substation siting standards adopted after the effective
290 date of this act does ~~shall~~ not apply to applications for new

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291 ~~distribution~~ electric substations or for changes to existing
292 electric substations which ~~substation applications that~~ were
293 submitted before ~~prior to~~ the notice of the local government's
294 adoption hearing.

295 (8) (a) If a local government has adopted standards for the
296 siting of new ~~distribution~~ electric substations or for changes
297 to existing electric substations within any of the local
298 government's land use categories or zoning districts, the local
299 government shall grant or deny a properly completed application
300 for a permit to locate a new electric substation or change an
301 existing ~~distribution~~ electric substation within the land use
302 category or zoning district within 90 days after the date the
303 properly completed application is declared complete in
304 accordance with the applicable local government application
305 procedures. If the local government fails to approve or deny a
306 properly completed application for a new ~~distribution~~ electric
307 substation or for changes to an existing electric substation
308 within the timeframes set forth, the application is ~~shall be~~
309 ~~deemed~~ automatically approved, and the applicant may proceed
310 with construction consistent with its application without
311 interference or penalty. Issuance of such local permit does not
312 relieve the applicant from complying with applicable federal or
313 state laws or regulations and other applicable local land
314 development or building regulations, if any.

315 (b) The local government shall notify the permit applicant
316 within 30 days after the date the application is submitted as to
317 whether the application is, for administrative purposes only,
318 properly completed and has been properly submitted. Further
319 completeness determinations shall be provided within 15 days

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320 after the receipt of additional information. However, such
321 determination is not ~~shall not be not deemed an~~ approval of the
322 application.

323 (c) To be effective, a waiver of the timeframes set forth
324 in this subsection must be voluntarily agreed to by the utility
325 applicant and the local government. A local government may
326 request, but not require, a waiver of the timeframes by the
327 applicant, except that, with respect to a specific application,
328 a one-time waiver may be required in the case of a declared
329 local, state, or federal emergency that directly affects the
330 administration of all permitting activities of the local
331 government.

332 (d) The local government may establish reasonable
333 timeframes within which the required information to cure the
334 application deficiency is to be provided, or the application
335 will be considered withdrawn or closed.

336 Section 5. Effective upon becoming a law, subsection (7) is
337 added to section 189.031, Florida Statutes, to read:

338 189.031 Legislative intent for the creation of independent
339 special districts; special act prohibitions; model elements and
340 other requirements; local general-purpose government/Governor
341 and Cabinet creation authorizations.—

342 (7) REVIEW OF DEVELOPMENT AGREEMENTS.—An independent
343 special district is precluded from complying with the terms of
344 any development agreement, or any other agreement for which the
345 development agreement serves in whole or part as consideration,
346 which is executed within 3 months preceding the effective date
347 of a law modifying the manner of selecting members of the
348 governing body of the independent special district from election

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349 to appointment or from appointment to election. The newly
350 elected or appointed governing body of the independent special
351 district shall review within 4 months of taking office any
352 development agreement or any other agreement for which the
353 development agreement serves in whole or part as consideration
354 and shall, after such review, vote on whether to seek readoption
355 of such agreement. This subsection shall apply to any
356 development agreement that is in effect on, or is executed
357 after, the effective date of this section. This subsection
358 expires July 1, 2028, unless reviewed and saved from repeal
359 through reenactment by the Legislature.

360 Section 6. Paragraph (a) of subsection (2) of section
361 189.08, Florida Statutes, is amended to read:

362 189.08 Special district public facilities report.—

363 (2) Each independent special district shall submit to each
364 local general-purpose government in which it is located a public
365 facilities report and an annual notice of any changes. The
366 public facilities report shall specify the following
367 information:

368 (a) A description of existing public facilities owned or
369 operated by the special district, and each public facility that
370 is operated by another entity, except a local general-purpose
371 government, through a lease or other agreement with the special
372 district. This description shall include the current capacity of
373 the facility, the current demands placed upon it, and its
374 location. This information shall be required in the initial
375 report and updated every 7 years at least 12 months before the
376 submission date of the evaluation and appraisal notification
377 letter of the appropriate local government required by s.

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378 163.3191. The department shall post a schedule on its website,
379 based on the evaluation and appraisal notification schedule
380 prepared pursuant to s. 163.3191(6) ~~s. 163.3191(5)~~, for use by a
381 special district to determine when its public facilities report
382 and updates to that report are due to the local general-purpose
383 governments in which the special district is located.

384 Section 7. Except as otherwise expressly provided in this
385 act and except for this section, which shall take effect upon
386 becoming a law, this act shall take effect July 1, 2023.