

By Senator Altman

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1 A bill to be entitled
2 An act relating to permitting; amending s. 403.973,
3 F.S.; removing the authority of the Office of Tourism,
4 Trade, and Economic Development to approve expedited
5 permitting and comprehensive plan amendments;
6 providing such authority to the Secretary of
7 Environmental Protection; revising criteria for
8 businesses submitting permit applications or local
9 comprehensive plan amendments; providing that permit
10 applications and local comprehensive plan amendments
11 for specified biofuel and renewable energy projects
12 are eligible for the expedited permitting process;
13 providing for the establishment of regional permit
14 action teams through the execution of memoranda of
15 agreement developed by permit applicants and the
16 secretary; providing for the appeal of a local
17 government's approval of an expedited permit or
18 comprehensive plan amendment; requiring such appeals
19 to be consolidated with challenges to state agency
20 actions; specifying the form of the memoranda of
21 agreement developed by the secretary; revising the
22 deadline by which certain final orders must be issued;
23 specifying additional requirements for recommended
24 orders; providing for challenges to state agency
25 action related to expedited permitting for specified
26 renewable energy projects; revising provisions
27 relating to the review of sites proposed for the
28 location of facilities eligible for the Innovation
29 Incentive Program; providing that certain electrical

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30 power projects are ineligible for expedited review;
31 providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Section 403.973, Florida Statutes, is amended to
36 read:

37 403.973 Expedited permitting; amendments to comprehensive
38 plans ~~plan amendments~~.

39 (1) It is the intent of the Legislature to encourage and
40 facilitate the location and expansion of those types of economic
41 development projects which offer job creation and high wages,
42 strengthen and diversify the state's economy, and have been
43 thoughtfully planned to take into consideration the protection
44 of the state's environment. It is also the intent of the
45 Legislature to provide for an expedited permitting and
46 comprehensive plan amendment process for such projects.

47 (2) As used in this section, the term:

48 (a) "Duly noticed" means publication in a newspaper of
49 general circulation in the municipality or county with
50 jurisdiction. The notice shall appear on at least 2 separate
51 days, one of which shall be at least 7 days before the meeting.
52 The notice shall state the date, time, and place of the meeting
53 scheduled to discuss or enact the memorandum of agreement, and
54 the places within the municipality or county where such proposed
55 memorandum of agreement may be inspected by the public. The
56 notice must be one-eighth of a page in size and must be
57 published in a portion of the paper other than the legal notices
58 section. The notice shall also advise that interested parties

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59 may appear at the meeting and be heard with respect to the
60 memorandum of agreement.

61 (b) "Jobs" means permanent, full-time equivalent positions
62 not including construction jobs.

63 ~~(c) "Office" means the Office of Tourism, Trade, and
64 Economic Development.~~

65 (c)~~(d)~~ "Permit applications" means state permits and
66 licenses, and at the option of a participating local government,
67 local development permits or orders.

68 (d) "Secretary" means the Secretary of Environmental
69 Protection or his or her designee.

70 (3) (a) The secretary ~~Governor, through the office,~~ shall
71 direct the creation of regional permit action teams~~,~~ for the
72 purpose of expediting review of permit applications and local
73 comprehensive plan amendments submitted by:

- 74 1. Businesses creating at least 50 ~~100~~ jobs;~~;~~ or
75 2. Businesses creating at least 25 ~~50~~ jobs if the project
76 is located in an enterprise zone, or in a county having a
77 population of fewer ~~less~~ than 75,000 or in a county having a
78 population of fewer ~~less~~ than 100,000 which is contiguous to a
79 county having a population of fewer ~~less~~ than 75,000, as
80 determined by the most recent decennial census, residing in
81 incorporated and unincorporated areas of the county.~~;~~~~or~~

82 (b) On a case-by-case basis and at the request of a county
83 or municipal government, the secretary ~~office~~ may certify as
84 eligible for expedited review a project not meeting the minimum
85 job creation thresholds but creating a minimum of 10 jobs. The
86 recommendation from the governing body of the county or
87 municipality in which the project may be located is required in

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88 order for the secretary ~~office~~ to certify that any project is
89 eligible for expedited review under this paragraph. When
90 considering projects that do not meet the minimum job creation
91 thresholds but that are recommended by the governing body in
92 which the project may be located, the secretary ~~office~~ shall
93 consider economic impact factors that include, but are not
94 limited to:

95 1. The proposed wage and skill levels relative to those
96 existing in the area in which the project may be located;

97 2. The project's potential to diversify and strengthen the
98 area's economy;

99 3. The amount of capital investment; and

100 4. The number of jobs that will be made available for
101 persons served by the welfare transition program.

102 (c) At the request of a county or municipal government, the
103 secretary ~~office~~ or a Quick Permitting County may certify
104 projects located in counties where the ratio of new jobs per
105 participant in the welfare transition program, as determined by
106 Workforce Florida, Inc., is less than one or otherwise critical,
107 as eligible for the expedited permitting process. Such projects
108 must meet the numerical job creation criteria of this
109 subsection, but the jobs created by the project do not have to
110 be high-wage jobs that diversify the state's economy.

111 (d) Projects located in a designated brownfield area are
112 eligible for the expedited permitting process.

113 (e) Projects that are part of the state-of-the-art
114 biomedical research institution and campus to be established in
115 this state by the grantee under s. 288.955 are eligible for the
116 expedited permitting process, if the projects are designated as

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117 part of the institution or campus by the board of county
118 commissioners of the county in which the institution and campus
119 are established.

120 (f) Projects resulting in the production of biofuels
121 cultivated on lands that are 1,000 acres or more or the
122 construction of a biofuel or biodiesel processing facility or a
123 facility generating renewable energy as defined in s.
124 366.91(2)(d) are eligible for the expedited permitting process.

125 (4) The regional teams shall be established through the
126 execution of memoranda of agreement developed by the applicant
127 and between the secretary, with input solicited from office and
128 the respective heads of the Department of Environmental
129 Protection, the Department of Community Affairs, the Department
130 of Transportation and its district offices, the Department of
131 Agriculture and Consumer Services, the Fish and Wildlife
132 Conservation Commission, appropriate regional planning councils,
133 appropriate water management districts, and voluntarily
134 participating municipalities and counties. The memoranda of
135 agreement should also accommodate participation in this
136 expedited process by other local governments and federal
137 agencies as circumstances warrant.

138 (5) In order to facilitate local government's option to
139 participate in this expedited review process, the secretary
140 ~~office~~ shall, in cooperation with local governments and
141 participating state agencies, create a standard form memorandum
142 of agreement. A local government shall hold a duly noticed
143 public workshop to review and explain to the public the
144 expedited permitting process and the terms and conditions of the
145 standard form memorandum of agreement.

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146 (6) The local government shall hold a duly noticed public
147 hearing to execute a memorandum of agreement for each qualified
148 project. Notwithstanding any other provision of law, and at the
149 option of the local government, the workshop provided for in
150 subsection (5) may be conducted on the same date as the public
151 hearing held under this subsection. The memorandum of agreement
152 that a local government signs shall include a provision
153 identifying necessary local government procedures and time
154 limits that will be modified to allow for the local government
155 decision on the project within 90 days. The memorandum of
156 agreement applies to projects, on a case-by-case basis, that
157 qualify for special review and approval as specified in this
158 section. The memorandum of agreement must make it clear that
159 this expedited permitting and review process does not modify,
160 qualify, or otherwise alter existing local government
161 nonprocedural standards for permit applications, unless
162 expressly authorized by law.

163 ~~(7) At the option of the participating local government,~~
164 Appeals of local government approvals ~~its final approval~~ for a
165 project shall ~~may~~ be pursuant to the summary hearing provisions
166 of s. 120.574, pursuant to subsection (14), and consolidated
167 with the challenge of any applicable state agency actions ~~or~~
168 ~~pursuant to other appellate processes available to the local~~
169 ~~government. The local government's decision to enter into a~~
170 ~~summary hearing must be made as provided in s. 120.574 or in the~~
171 ~~memorandum of agreement.~~

172 (8) Each memorandum of agreement shall include a process
173 for final agency action on permit applications and local
174 comprehensive plan amendment approvals within 90 days after

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175 receipt of a completed application, unless the applicant agrees
176 to a longer time period or the secretary ~~office~~ determines that
177 unforeseen or uncontrollable circumstances preclude final agency
178 action within the 90-day timeframe. Permit applications governed
179 by federally delegated or approved permitting programs whose
180 requirements would prohibit or be inconsistent with the 90-day
181 timeframe are exempt from this provision, but must be processed
182 by the agency with federally delegated or approved program
183 responsibility as expeditiously as possible.

184 (9) The secretary ~~office~~ shall inform the Legislature by
185 October 1 of each year which agencies have not entered into or
186 implemented an agreement and identify any barriers to achieving
187 success of the program.

188 (10) The memoranda of agreement may provide for the waiver
189 or modification of procedural rules prescribing forms, fees,
190 procedures, or time limits for the review or processing of
191 permit applications under the jurisdiction of those agencies
192 that are party to the memoranda of agreement. Notwithstanding
193 any other provision of law to the contrary, a memorandum of
194 agreement must to the extent feasible provide for proceedings
195 and hearings otherwise held separately by the parties to the
196 memorandum of agreement to be combined into one proceeding or
197 held jointly and at one location. Such waivers or modifications
198 shall not be available for permit applications governed by
199 federally delegated or approved permitting programs, the
200 requirements of which would prohibit, or be inconsistent with,
201 such a waiver or modification.

202 (11) The standard form for memoranda of agreement shall
203 include guidelines to be used in working with state, regional,

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204 and local permitting authorities. Guidelines may include, but
205 are not limited to, the following:

206 (a) A central contact point for filing permit applications
207 and local comprehensive plan amendments and for obtaining
208 information on permit and local comprehensive plan amendment
209 requirements;

210 (b) Identification of the individual or individuals within
211 each respective agency who will be responsible for processing
212 the expedited permit application or local comprehensive plan
213 amendment for that agency;

214 (c) A mandatory preapplication review process to reduce
215 permitting conflicts by providing guidance to applicants
216 regarding the permits needed from each agency and governmental
217 entity, site planning and development, site suitability and
218 limitations, facility design, and steps the applicant can take
219 to ensure expeditious permit application and local comprehensive
220 plan amendment review. As a part of this process, the first
221 interagency meeting to discuss a project shall be held within 14
222 days after the secretary's ~~office's~~ determination that the
223 project is eligible for expedited review. Subsequent interagency
224 meetings may be scheduled to accommodate the needs of
225 participating local governments that are unable to meet public
226 notice requirements for executing a memorandum of agreement
227 within this timeframe. This accommodation may not exceed 45 days
228 from the secretary's ~~office's~~ determination that the project is
229 eligible for expedited review;

230 (d) The preparation of a single coordinated project
231 description form and checklist and an agreement by state and
232 regional agencies to reduce the burden on an applicant to

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233 provide duplicate information to multiple agencies;

234 (e) Establishment of a process for the adoption and review
235 of any comprehensive plan amendment needed by any certified
236 project within 90 days after the submission of an application
237 for a comprehensive plan amendment. However, the memorandum of
238 agreement may not prevent affected persons as defined in s.
239 163.3184 from appealing or participating in this expedited plan
240 amendment process and any review or appeals of decisions made
241 under this paragraph; and

242 (f) Additional incentives for an applicant who proposes a
243 project that provides a net ecosystem benefit.

244 (12) The applicant, the regional permit action team, and
245 participating local governments may agree to incorporate into a
246 single document the permits, licenses, and approvals that are
247 obtained through the expedited permit process. This consolidated
248 permit is subject to the summary hearing provisions set forth in
249 subsection (14).

250 (13) Notwithstanding any other provisions of law:

251 (a) Local comprehensive plan amendments for projects
252 qualified under this section are exempt from the twice-a-year
253 limits provision in s. 163.3187; and

254 (b) Projects qualified under this section are not subject
255 to interstate highway level-of-service standards adopted by the
256 Department of Transportation for concurrency purposes. The
257 memorandum of agreement specified in subsection (5) must include
258 a process by which the applicant will be assessed a fair share
259 of the cost of mitigating the project's significant traffic
260 impacts, as defined in chapter 380 and related rules. The
261 agreement must also specify whether the significant traffic

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262 impacts on the interstate system will be mitigated through the
263 implementation of a project or payment of funds to the
264 Department of Transportation. Where funds are paid, the
265 Department of Transportation must include in the 5-year work
266 program transportation projects or project phases, in an amount
267 equal to the funds received, to mitigate the traffic impacts
268 associated with the proposed project.

269 (14) (a) Challenges to state agency action in the expedited
270 permitting process for projects processed under this section are
271 subject to the summary hearing provisions of s. 120.574, except
272 that the administrative law judge's decision, as provided in s.
273 120.574(2) (f), shall be in the form of a recommended order and
274 shall not constitute the final action of the state agency. In
275 those proceedings where the action of only one agency of the
276 state, other than the Department of Environmental Protection, is
277 challenged, the agency of the state shall issue the final order
278 within 45 ~~10~~ working days after ~~of~~ receipt of the administrative
279 law judge's recommended order. The recommended order shall
280 inform the parties of their right to file exceptions or
281 responses to the recommended order in accordance with the Rules
282 of Administrative Procedure. In those proceedings where the
283 actions of more than one agency of the state are challenged, the
284 Governor shall issue the final order within 45 ~~10~~ working days
285 after ~~of~~ receipt of the administrative law judge's recommended
286 order. The recommended order shall inform the parties of their
287 right to file exceptions or responses to the recommended order
288 in accordance with the Rules of Administrative Procedure. This
289 paragraph does not apply to the issuance of department licenses
290 required under any federally delegated or approved permit

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291 program. In such instances, the department shall enter the final
292 order. The participating agencies of the state may opt at the
293 preliminary hearing conference to allow the administrative law
294 judge's decision to constitute the final agency action. If a
295 participating local government agrees to participate in the
296 summary hearing provisions of s. 120.574 for purposes of review
297 of local government comprehensive plan amendments, s.
298 163.3184(9) and (10) apply.

299 (b) Projects identified in paragraph (3)(f) or challenges
300 to state agency action in the expedited permitting process for
301 establishment of a state-of-the-art biomedical research
302 institution and campus in this state by the grantee under s.
303 288.955 are subject to the same requirements as challenges
304 brought under paragraph (a), except that, notwithstanding s.
305 120.574, summary proceedings must be conducted within 30 days
306 after a party files the motion for summary hearing, regardless
307 of whether the parties agree to the summary proceeding.

308 (15) The secretary office, working with the agencies
309 providing cooperative assistance and input regarding
310 ~~participating in~~ the memoranda of agreement, shall review sites
311 proposed for the location of facilities eligible for the
312 Innovation Incentive Program under s. 288.1089. Within 20 days
313 after the request for the review by the secretary office, the
314 agencies shall provide to the secretary office a statement as to
315 each site's necessary permits under local, state, and federal
316 law and an identification of significant permitting issues,
317 which if unresolved, may result in the denial of an agency
318 permit or approval or any significant delay caused by the
319 permitting process.

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320 (16) This expedited permitting process shall not modify,
321 qualify, or otherwise alter existing agency nonprocedural
322 standards for permit applications or local comprehensive plan
323 amendments, unless expressly authorized by law. If it is
324 determined that the applicant is not eligible to use this
325 process, the applicant may apply for permitting of the project
326 through the normal permitting processes.

327 (17) The secretary ~~office~~ shall be responsible for
328 certifying a business as eligible for undergoing expedited
329 review under this section. Enterprise Florida, Inc., a county or
330 municipal government, or the Rural Economic Development
331 Initiative may recommend to the secretary ~~Office of Tourism,~~
332 ~~Trade, and Economic Development~~ that a project meeting the
333 minimum job creation threshold undergo expedited review.

334 (18) The secretary ~~office~~, working with the Rural Economic
335 Development Initiative and the agencies participating in the
336 memoranda of agreement, shall provide technical assistance in
337 preparing permit applications and local comprehensive plan
338 amendments for counties having a population of less than 75,000
339 residents, or counties having fewer than 100,000 residents which
340 are contiguous to counties having fewer than 75,000 residents.
341 Additional assistance may include, but not be limited to,
342 guidance in land development regulations and permitting
343 processes, working cooperatively with state, regional, and local
344 entities to identify areas within these counties which may be
345 suitable or adaptable for preclearance review of specified types
346 of land uses and other activities requiring permits.

347 (19) The following projects are ineligible for review under
348 this part:

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349 (a) A project funded and operated by a local government, as
350 defined in s. 377.709, and located within that government's
351 jurisdiction.

352 (b) A project, the primary purpose of which is to:

353 1. Effect the final disposal of solid waste, biomedical
354 waste, or hazardous waste in this state.

355 2. Produce electrical power, unless the production of
356 electricity is incidental and not the primary function of the
357 project or the electrical power is derived from a fuel source
358 for renewable energy as defined in s. 366.91(2) (d).

359 3. Extract natural resources.

360 4. Produce oil.

361 5. Construct, maintain, or operate an oil, petroleum,
362 natural gas, or sewage pipeline.

363 Section 2. This act shall take effect upon becoming a law.