

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

1. The proposed wage and skill levels relative to those existing in the area in which the project may be located;
2. The project's potential to diversify and strengthen the area's economy;
3. The amount of capital investment; and
4. The number of jobs that will be made available for persons served by the welfare transition program.

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

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

(e) Projects that are part of the state-of-the-art biomedical research institution and campus to be established in this state by the grantee under s. 288.955 are eligible for the 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.