

CHAPTER 2013-224

Committee Substitute for House Bill No. 357

An act relating to manufacturing development; creating s. 163.325, F.S.; providing a short title; establishing the Manufacturing Competitiveness Act; creating s. 163.3251, F.S.; providing definitions; creating s. 163.3252, F.S.; authorizing local governments to establish a local manufacturing development program that provides for master development approval for certain sites; providing specific time periods for action by local governments; requiring the Department of Economic Opportunity to develop a model ordinance containing specified information and provisions; requiring a local manufacturing development program ordinance to include certain information; providing certain restrictions on the termination of a local manufacturing development program; creating s. 163.3253, F.S.; requiring the department, in cooperation with participating agencies, to establish a manufacturing development coordinated approval process for certain manufacturers; requiring participating agencies to coordinate and review applications for certain state development approvals; requiring the department to convene a meeting when requested by a certain manufacturer; requiring participating agencies to attend meetings convened by the department; specifying that the department is not required, but is authorized, to mediate between the participating agencies and a manufacturer; providing that the department shall not be party to certain proceedings; requiring that the coordinated approval process have no effect on the department's approval of economic development incentives; providing for requests for additional information and specifying time periods; requiring participating agencies to take final action on applications within a certain time period; requiring the department to facilitate the resolution of certain applications; providing for approval by default; providing for applicability with respect to permit applications governed by federally delegated or approved permitting programs; authorizing the department to adopt rules; creating s. 288.111, F.S.; requiring the department to develop materials that identify local manufacturing development programs; requiring Enterprise Florida, Inc., and authorizing other state agencies, to distribute such material; providing an effective date.

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

Section 1. Section 163.325, Florida Statutes, is created to read:

163.325 Short title.—Sections 163.325-163.3253 may be cited as the “Manufacturing Competitiveness Act.”

Section 2. Section 163.3251, Florida Statutes, is created to read:

163.3251 Definitions.—As used in ss. 163.3251-163.3253, the term:

(1) “Department” means the Department of Economic Opportunity.

(2) “Local government development approval” means a local land development permit, order, or other approval issued by a local government, or a modification of such permit, order, or approval, which is required for a manufacturer to physically locate or expand and includes, but is not limited to, the review and approval of a master development plan required under s. 163.3252(2)(c).

(3) “Local manufacturing development program” means a program enacted by a local government for approval of master development plans under s. 163.3252.

(4) “Manufacturer” means a business that is classified in Sectors 31-33 of the National American Industry Classification System (NAICS) and is located, or intends to locate, within the geographic boundaries of an area designated by a local government as provided under s. 163.3252.

(5) “Participating agency” means:

(a) The Department of Environmental Protection.

(b) The Department of Transportation.

(c) The Fish and Wildlife Conservation Commission, when acting pursuant to statutory authority granted by the Legislature.

(d) Water management districts.

(6) “State development approval” means a state or regional permit or other approval issued by a participating agency, or a modification of such permit or approval, which must be obtained before the development or expansion of a manufacturer’s site, and includes, but is not limited to, those specified in s. 163.3253(1).

Section 3. Section 163.3252, Florida Statutes, is created to read:

163.3252 Local manufacturing development program; master development approval for manufacturers.—A local government may adopt an ordinance establishing a local manufacturing development program through which the local government may grant master development approval for the development or expansion of sites that are, or are proposed to be, operated by manufacturers at specified locations within the local government’s geographic boundaries.

(1)(a) A local government that elects to establish a local manufacturing development program shall submit a copy of the ordinance establishing the program to the department within 20 days after the ordinance is enacted.

(b) A local government ordinance adopted before the effective date of this act establishes a local manufacturing development program if it satisfies the

minimum criteria established in subsection (3) and if the local government submits a copy of the ordinance to the department on or before September 1, 2013.

(2) By December 1, 2013, the department shall develop a model ordinance to guide local governments that intend to establish a local manufacturing development program. The model ordinance, which need not be adopted by a local government, must include:

(a) Procedures for a manufacturer to apply for a master development plan and procedures for a local government to review and approve a master development plan.

(b) Identification of those areas within the local government’s jurisdiction which are subject to the program.

(c) Minimum elements for a master development plan, including, but not limited to:

- 1. A site map.
- 2. A list proposing the site’s land uses.
- 3. Maximum square footage, floor area ratio, and building heights for future development on the site, specifying with particularity those features and facilities for which the local government will require the establishment of maximum dimensions.

4. Development conditions.

(d) A list of the development impacts, if applicable to the proposed site, which the local government will require to be addressed in a master development plan, including, but not limited to:

- 1. Drainage.
- 2. Wastewater.
- 3. Potable water.
- 4. Solid waste.
- 5. Onsite and offsite natural resources.
- 6. Preservation of historic and archeological resources.
- 7. Offsite infrastructure.
- 8. Public services.
- 9. Compatibility with adjacent offsite land uses.
- 10. Vehicular and pedestrian entrance to and exit from the site.

11. Offsite transportation impacts.

(e) A provision vesting any existing development rights authorized by the local government before the approval of a master development plan, if requested by the manufacturer.

(f) Whether an expiration date is required for a master development plan and, if required, a provision stating that the expiration date may not be earlier than 10 years after the plan's adoption.

(g) A provision limiting the circumstances that require an amendment to an approved master development plan to the following:

1. Enactment of state law or local ordinance addressing an immediate and direct threat to the public safety that requires an amendment to the master development order.

2. Any revision to the master development plan initiated by the manufacturer.

(h) A provision stating that the scope of review for any amendment to a master development plan is limited to the amendment and does not subject any other provision of the approved master development plan to further review.

(i) A provision stating that, during the term of a master development plan, the local government may not require additional local development approvals for those development impacts listed in paragraph (d) that are addressed in the master development plan, other than approval of a building permit to ensure compliance with the state building code and any other applicable state-mandated life and safety code.

(j) A provision stating that, before commencing construction or site development work, the manufacturer must submit a certification, signed by a licensed architect, engineer, or landscape architect, attesting that such work complies with the master development plan.

(k) A provision establishing the form that will be used by the local government to certify that a manufacturer is eligible to participate in the local manufacturing development program adopted by that jurisdiction.

(3) A local manufacturing development program ordinance must, at a minimum, be consistent with subsection (2) and establish procedures for:

(a) Reviewing an application from a manufacturer for approval of a master development plan.

(b) Approving a master development plan, which may include conditions that address development impacts anticipated during the life of the development.

(c) Developing the site in a manner consistent with the master development plan without requiring additional local development approvals other than building permits.

(d) Certifying that a manufacturer is eligible to participate in the local manufacturing development program.

(4)(a) A local government that establishes a local manufacturing development program may not abolish the program until it has been in effect for at least 24 months.

(b) If a local government repeals its local manufacturing development program ordinance:

1. Any application for a master development plan which is submitted to the local government before the effective date of the repeal is vested and remains subject to the local manufacturing development program ordinance in effect when the application was submitted; and

2. The manufacturer that submitted the application is entitled to participate in the manufacturing development coordinated approval process established in s. 163.3253.

Section 4. Section 163.3253, Florida Statutes, is created to read:

163.3253 Coordinated manufacturing development approval process.—The department shall coordinate the manufacturing development approval process with participating agencies, as set forth in this section, for manufacturers that are developing or expanding in a local government that has a local manufacturing development program.

(1) The approval process must include collaboration and coordination among, and simultaneous review by, the participating agencies of applications for the following state development approvals:

(a) Wetland or environmental resource permits.

(b) Surface water management permits.

(c) Stormwater permits.

(d) Consumptive water use permits.

(e) Wastewater permits.

(f) Air emission permits.

(g) Permits relating to listed species.

(h) Highway or roadway access permits.

(i) Any other state development approval within the scope of a participating agency's authority.

(2)(a) When filing its application for state development approval, a manufacturer shall file with the department and each participating agency proof that its development or expansion is located in a local government that has a local manufacturing development program.

(b) If a local government repeals its local manufacturing development program ordinance, a manufacturer developing or expanding in that jurisdiction remains entitled to participate in the process if the manufacturer submitted its application for a local government development approval before the effective date of repeal.

(3) At any time during the process, if a manufacturer requests that the department convene a meeting with one or more participating agencies to facilitate the process, the department shall convene a meeting that the participating agencies shall attend.

(a) The department is not required to mediate between the participating agencies and the manufacturer, but may participate as necessary to accomplish the purposes set forth in s. 20.60(4)(f).

(b) The department shall not be a party to any proceeding initiated under ss. 120.569 and 120.57 that relates to approval or disapproval of an application for state development approval processed under this section.

(c) The department's participation in a coordinated manufacturing development approval process under this section shall have no effect on its approval or disapproval of any application for economic development incentives sought under s. 288.061 or another incentive requiring department approval.

(4) If a participating agency determines that an application is incomplete, the participating agency shall notify the applicant and the department in writing of the additional information necessary to complete the application.

(a) Unless the deadline is waived in writing by the manufacturer, a participating agency shall provide a request for additional information to the manufacturer and the department within 20 days after the date the application is filed with the participating agency.

(b) If the participating agency does not request additional information within the 20-day period, the participating agency may not subsequently deny the application based on the manufacturer's failure to provide additional information.

(c) Within 10 days after the manufacturer's response to the request for additional information, a participating agency may make a second request

for additional information for the sole purpose of obtaining clarification of the manufacturer's response.

(5)(a) Unless the deadline is waived in writing by the manufacturer, each participating agency shall take final agency action on a state development approval within its authority within 60 days after a complete application is filed. The 60-day period is tolled by the initiation of a proceeding under ss. 120.569 and 120.57.

(b) A participating agency shall notify the department if the agency intends to deny a manufacturer's application and, unless waived in writing by the manufacturer, the department shall timely convene an informal meeting to facilitate a resolution.

(c) Unless waived in writing by the manufacturer, if a participating agency does not approve or deny an application within the 60-day period, within the time allowed by a federally delegated permitting program, or, if a proceeding is initiated under ss. 120.569 and 120.57, within 45 days after a recommended order is submitted to the agency and the parties, the state development approval within the authority of the participating agency is deemed approved. A manufacturer seeking to claim approval by default under this subsection shall notify, in writing, the clerks of both the participating agency and the department of that intent. A manufacturer may not take action based upon the default approval until such notice is received by both agency clerks.

(d) At any time after a proceeding is initiated under ss. 120.569 and 120.57, the manufacturer may demand expeditious resolution by serving notice on an administrative law judge and all other parties to the proceeding. The administrative law judge shall set the matter for final hearing no more than 30 days after receipt of such notice. After the final hearing is set, a continuance may not be granted without the written agreement of all parties.

(6) Subsections (4) and (5) do not apply to permit applications governed by federally delegated or approved permitting programs to the extent that subsections (4) and (5) impose timeframes or other requirements that are prohibited by or inconsistent with such federally delegated or approved permitting programs.

(7) The department may adopt rules to administer this section.

Section 5. Section 288.111, Florida Statutes, is created to read:

288.111 Information concerning local manufacturing development programs.—The department shall develop materials that identify each local government that establishes a local manufacturing development program under s. 163.3252. The materials, which the department may elect to develop and maintain in electronic format or in any other format deemed by the department to provide public access, must be updated at least annually. Enterprise Florida, Inc., shall, and other state agencies may, distribute the

materials to prospective, new, expanding, and relocating businesses seeking to conduct business in this state.

Section 6. This act shall take effect July 1, 2013.

Approved by the Governor June 27, 2013.

Filed in Office Secretary of State June 27, 2013.