

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/CS/HB 89 — Building Construction

by Commerce Committee; Regulatory Reform and Economic Development Subcommittee; and Rep. Maggard and others (CS/CS/SB 512 by Rules Committee; Community Affairs Committee; and Senator Hooper)

The bill makes various changes pertaining to the review and issuance of building permits and specifies the extent to which local building officials and fire safety officials may require a building permit applicant or holder to make substantive changes to building plans.

Specifically, the bill:

- Prohibits a local government from making substantive changes to building plans after a permit has been issued unless such changes are required under the Florida Building Code or the Florida Fire Prevention Code. If changes are necessary, the local government must identify in writing the specific parts of the plan that do not conform to the applicable code.
- Requires a building code administrator, plans examiner, or inspector to notify the local government if an employee who is not a building code administrator, plans examiner, or inspector determines that a building plan does not comply with the Florida Building Code.
- Requires a local fire official to notify a building permit applicant of the specific reasons why building plans do not comply with the Florida Fire Prevention Code.
- Allows a plans examiner, inspector, building official, or fire safety inspector to have his or her certificate disciplined for failure to notify the appropriate person of the reasons for making or requiring substantive changes to building plans.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 114-2

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/SB 102 — Housing

by Appropriations Committee and Senators Calatayud, Rouson, Hooper, Osgood, Rodriguez, and Boyd

The bill (Chapter 2023-17, L.O.F.), cited as the “Live Local Act,” makes various changes and additions to affordable housing related programs and policies at both the state and local level.

Much of the bill involves the Florida Housing Finance Corporation (FHFC), a public-private entity that administers the two largest statewide affordable housing programs: the State Apartment Incentive Loan (SAIL) program and the State Housing Initiatives Partnership (SHIP) program. With regards to funding for the FHFC, the bill:

- Provides appropriations for the SHIP and SAIL programs, including:
 - \$252 million in non-recurring funds from the Local Government Housing Trust Fund for the SHIP program for the 2023-2024 fiscal year;
 - \$109 million in non-recurring funds from the State Housing Trust Fund for the SAIL program for the 2023-2024 fiscal year; and
 - \$100 million in non-recurring funds from the General Revenue Fund to implement a competitive loan program to alleviate inflation-related cost increases for FHFC-approved multifamily projects that have not yet commenced construction; funds unallocated as of December 1, 2023, will be dedicated as additional SAIL funding (effective upon becoming a law).
- Temporarily exempts documentary stamp tax revenues from the General Revenue service charge to provide up to \$150 million in recurring funding to the SAIL program for specified priorities, such as urban infill projects and projects near military installations.
- Establishes the Florida Hometown Hero down payment assistance program for first-time homebuyers with incomes at or below 150 percent of the area median income (AMI) and employed by a Florida-based employer. The bill appropriates \$100 million in non-recurring funds from the General Revenue Fund to implement this program.

Regarding the FHFC, the bill also:

- Provides up to a \$5,000 refund for sales tax paid on building materials used to construct an affordable housing unit funded through the FHFC.
- Creates a new tax donation program to allow corporate taxpayers to direct certain tax payments to the FHFC, up to \$100 million annually, to fund the SAIL program. Of these funds, up to \$25 million annually can be dedicated to loans for the construction of large-scale projects of significant regional impact.
- Adds two members to the FHFC Board of Directors, one appointed by the leader of each chamber of the Legislature.
- Broadens the ability for the FHFC to invest in affordable housing developments for those in or aging out of foster care.
- Adds a requirement to its annual legislative budget request.

With regards to other state-level resources, the bill:

- Revises the State Housing Strategy to align with current best practices and goals.
- Requires managers of state nonconservation lands to analyze whether such lands would be more appropriately transferred to a local government for affordable housing related purposes.
- Expands Job Growth Grant Fund eligibility to specifically authorize public infrastructure projects that support affordable housing.
- Increases the amount of tax credits available through the Community Contribution Tax Credit Program for affordable housing from \$14.5 million to \$25 million annually.

With regards to local governments, the bill:

- Preempts local governments' requirements regarding zoning, density, and height to allow for streamlined development of affordable multifamily rental housing in commercial, industrial, and mixed-use zoned areas under certain circumstances.
- Removes a local government's ability to approve affordable housing on residential parcels by bypassing state and local laws that may otherwise preclude such development, while retaining such right for commercial and industrial parcels.
- Removes provision in current law allowing local governments to impose rent control under certain emergency circumstances, preempting rent control ordinances entirely.
- Requires counties and cities to update and electronically publish the inventory of publicly owned properties which may be appropriate for affordable housing development.
- Authorizes the FHFC, through contract with the Florida Housing Coalition, to provide technical assistance to local governments to facilitate the use or lease of county or municipal property for affordable housing purposes.
- Requires local governments to maintain a public written policy outlining procedures for expediting building permits and development orders for affordable housing projects.
- Provides that the Department of Economic Opportunity's 2018 Keys Workforce Housing Initiative, which authorized the construction of up to 1,300 affordable housing units in the Keys area, is an exception to the evacuation time requirements that otherwise apply in Monroe County.

The bill also introduces three ad valorem property tax exemptions, which first apply to the 2024 tax roll:

- An ad valorem tax exemption for land owned by a nonprofit entity that is leased for a minimum of 99 years for the purpose of providing affordable housing.
- An ad valorem tax exemption that applies to rent-restricted units within newly constructed or substantially rehabilitated developments setting aside at least 70 units for affordable housing for households earning 120 percent of the AMI or less.
- Authorizes counties and municipalities to offer, through ordinance, an ad valorem tax exemption to property owners who dedicate units for affordable housing for households earning 60 percent of the AMI or less.

These provisions were approved by the Governor and take effect July 1, 2023, except where otherwise provided.

Vote: Senate 40-0; House 103-6

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED
Committee on Community Affairs

CS/CS/SB 170 — Local Ordinances

by Rules Committee; Community Affairs Committee; and Senators Trumbull and Perry

The bill pertains to the passage and challenging of local ordinances. It adds to the process for local governments passing ordinances and gives certain additional rights to those challenging local ordinances.

The bill requires counties and cities to produce a “business impact estimate” prior to passing an ordinance, with exceptions. The estimate must be published on the local government’s website and include certain information, such as the proposed ordinance’s purpose, estimated economic impact on businesses, and compliance costs.

Additionally, the bill imposes certain conditions on lawsuits brought by any party to challenge the legal validity of local ordinances as preempted by state law, arbitrary, or unreasonable. In these cases, the bill:

- Requires the local government to suspend enforcement of an ordinance of such legal challenge, under certain circumstances.
- Requires the court to give those cases in which enforcement of the ordinance is suspended priority over other pending cases and render a preliminary or final decision as expeditiously as possible.
- Provides that a court may award up to \$50,000 in attorney fees to a prevailing plaintiff who successfully challenges an ordinance as arbitrary or unreasonable.

The bill also provides, remedially and effective upon becoming a law, that properly noticed consideration of a proposed ordinance may be continued to a subsequent meeting under certain circumstances without further publication, mailing, or posted notice.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect October 1, 2023, except where otherwise provided.

Vote: Senate 28-12; House 82-33

Committee on Community Affairs

CS/CS/SB 250 — Natural Emergencies

by Fiscal Policy Committee; Community Affairs Committee; and Senator Martin

The bill makes various changes throughout Florida Statutes regarding the preparation and response activities of state and local government when natural emergencies impact the state.

Specifically, the bill:

- Requires the Division of Emergency Management to post on its website a model debris removal contract for the benefit of local governments (effective upon becoming a law).
- Requires the Division of Emergency Management to prioritize technical assistance and training to fiscally constrained counties on aspects of preparedness, response, recovery, and mitigation (effective upon becoming a law).
- Encourages local governments to create emergency financial plans in preparation for major natural disasters.
- Provides that counties and municipalities cannot prohibit a resident from placing a temporary residential structure on their property for up to 36 months following a natural emergency under certain circumstances.
- Authorizes local governments to create specialized building inspection teams following a natural disaster and encourages interlocal agreements for additional building inspection services during a state of emergency.
- Requires local governments to expedite the issuance of building permits following a natural disaster.
- Increases the extension of certain building permits following a declaration of a state of emergency from six to 24 months and caps such extension at 48 months in the event of multiple natural emergencies.
- Prohibits counties and municipalities within the disaster declaration for Hurricane Ian or Hurricane Nicole from increasing building fees until October 1, 2024 (effective upon becoming a law).
- Allows registered contractors to engage in contracting for the types of work covered by their registration within areas for which a state of emergency has been declared (effective upon becoming a law).
- Prohibits counties and municipalities within 100 miles of Hurricane Ian or Hurricane Nicole landfall from adopting more restrictive or burdensome procedures to their comprehensive plans or land development regulations concerning review, approval, or issuance of a site plan, development permit, or development order before October 1, 2024. Additionally, such counties and municipalities may not propose or adopt a moratorium on construction, reconstruction, or redevelopment of any property damaged by Hurricane Ian or Nicole (effective upon becoming a law).
- Extends the date for fire control districts within 50 miles of Hurricane Ian’s landfall to submit statutorily-required performance reviews.
- Amends the Consultants’ Competitive Negotiation Act to allow for additional disaster-related construction projects relating to Hurricane Ian to utilize the “continuing contracts” provision through December 31, 2023 (effective upon becoming a law).

- Makes the Local Government Emergency Bridge Loan Program a revolving program and makes funds available for local governments impacted by federally declared disasters until July 1, 2038. The bill appropriates \$50 million in nonrecurring funds from the General Revenue Fund to the program for the 2023-2024 fiscal year and authorizes \$50 million of funds appropriated in special session to a previous version of the program to be transferred and used for this program.
- Provides clarification regarding the 45-day grace period following a hurricane in which owners must bring a derelict vessel into compliance before being charged with a violation.
- Directs the Division of Emergency Management to administer a revolving loan program for local government hazard mitigation projects, and appropriates \$1 million in nonrecurring funds from the General Revenue Fund and \$10 million in nonrecurring funds from the Federal Grants Trust Fund for such activity for the 2023-2024 fiscal year.
- Shields public utilities from liability for damages arising from changes in reliability, continuity, or quality of services stemming from an emergency or disaster.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023, except as otherwise provided.

Vote: Senate 39-0; House 109-4

THE FLORIDA SENATE
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Committee on Community Affairs

CS/CS/HB 327 — Fire Sprinkler System Projects

by Commerce Committee; Regulatory Reform and Economic Development Subcommittee; and Rep. Bell and others (CS/SB 408 by Regulated Industries Committee and Senator Perry)

The bill creates a simplified permitting process for fire sprinkler system alteration projects involving 20 or fewer sprinklers. For these “fire sprinkler system projects,” as defined in the bill, a local enforcement agency may require a fire system contractor to submit a permit application and pay a permit fee, but may not require the contractor to submit plans or specifications as a condition of obtaining such permit. Such fire sprinkler system projects must have at least one inspection to ensure compliance with applicable codes and standards, and a contractor must keep a copy of plans available for inspection. The local enforcement agency must issue a permit for a fire sprinkler system project in person or electronically. These provisions mirror the simplified permitting process in current law for small fire alarm system projects.

The bill defines a “fire sprinkler system project” to mean a fire protection system alteration of a total of 20 or fewer fire sprinklers that have the same K-factor (relating to discharge rates from sprinkler heads) and does not change a hazard classification or an increased system coverage area, or the installation or replacement of an equivalent sprinkler system component in an existing commercial, residential, apartment, cooperative, or condominium building.

The bill also clarifies the scope of work for certain fire protection system contractors. It provides that a Contractor I or II may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation or deletion of 249 or fewer sprinklers, and the addition of 49 sprinklers, as long as the cumulative total number of fire sprinklers being added, relocated, or deleted does not exceed 249.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 40-0; House 110-0

THE FLORIDA SENATE
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Committee on Community Affairs

CS/CS/SB 346 — Public Construction

by Governmental Oversight and Accountability Committee; Community Affairs Committee; and Senator DiCeglie

Local Government Construction Contracts

Contracts between local governments and private contractors for construction of public projects are subject to prompt payment requirements. The Local Government Prompt Payment Act provides for timely payment by local governmental entities to construction contractors. State government public construction contracts are subject to the Florida Prompt Payment Act.

Each local government contract for construction services must provide for the development of a single list of items required to render complete, satisfactory, and acceptable construction services purchased by the local governmental entity (also called a “punch list”).

The bill requires each punch list to outline the estimated cost of each item necessary to complete the work. The local government must pay all portions of the contract balance, except for 150 percent of the portion attributed to those projects on the list within 20 days after the list is created, subject to certain exceptions. A local government must pay the contractor for the remaining list projects upon their total completion, subject to certain exceptions.

The bill limits local governments’ ability to withhold certain amounts under the contract to only those subject to a written good faith dispute or claims against public surety bonds. It also shortens the timeframes in which a disputed construction services contract must be resolved, and clarifies that a local government must pay the undisputed portions of a contract within 20 days.

Public Works Projects

Under current law, political subdivisions may impose otherwise prohibited requirements on contractors for public works projects that are paid for entirely with local funds or, if state funds are used, for projects up to \$1 million. The bill removes the ability for political subdivisions to impose such requirements on contractors for projects that use any amount of *state-appropriated funds*. Therefore, political subdivisions that pay for public works projects with any state funds cannot:

- Exclude contractors from bidding on a public works project based on their geographic location;
- Impose certain wage and employment conditions on contractors and their employees;
- Require that a contractor recruit, train, or hire employees from a designated, restricted, or single source; and
- Prohibit any contractor, subcontractor, materials supplier, or carrier from submitting a bid if the entity is qualified, licensed, or certified.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 36-0; House 83-29

THE FLORIDA SENATE
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CS/CS/SB 540 — Local Government Comprehensive Plans

by Rules Committee; Judiciary Committee; and Senator DiCeglie

Current law provides a process for an affected person to challenge whether a comprehensive plan or plan amendment complies with the Community Planning Act in ch. 163, F.S., by petitioning the Division of Administrative Hearings for a formal hearing on the matter. The bill provides that in an administrative challenge to a comprehensive plan or a plan amendment, the prevailing party is entitled to recover attorney fees and costs, including reasonable appellate attorney fees and costs.

The bill also clarifies the scope of review for a local government decision to grant or deny a development order by providing that the order may only be challenged if it would materially alter the use, density, or intensity of the property in a manner not consistent with the comprehensive plan.

Lastly, the bill provides that land development regulations relating to any characteristic of development other than use, or intensity or density of use, do not apply to Florida College System institutions.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 29-10; House 87-30

THE FLORIDA SENATE
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SB 678 — Disposal of Property

by Senator Powell

The bill provides that the Florida Department of Transportation may convey property to a governmental entity without consideration if the property is to be used for affordable housing.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 119-0

THE FLORIDA SENATE
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Committee on Community Affairs

CS/CS/SB 718 — Local Government

by Rules Committee; Community Affairs Committee; and Senator Yarborough

Annexation and Contraction

The bill makes changes to the municipal annexation and contraction process by specifying requirements for the report a municipality must prepare prior to any annexation or contraction action. The bill defines the report as a “feasibility study” and provides that such study must analyze the economic, market, technical, financial, and management feasibility of a proposed annexation or contraction.

As it pertains to contraction specifically, the bill removes the requirement that a municipality provide specific findings when rejecting a petition from the voters in an area desiring to be excluded from the municipal boundaries. It also revises the contraction procedures in situations where more than 70 percent of the acres proposed to be contracted are owned by private entities that are not registered electors. The bill requires in these instances that the owners of a majority of the acreage consent to such contraction. This change mirrors requirements in current law for municipal annexation and will apply to contraction petitions filed on or after July 1, 2023.

Amendments to Land Development Regulations

Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and includes any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.

The bill prohibits local governments from requiring an initiative and referendum process for amendments to land development regulations. Current law generally prohibits an initiative or referendum process for any development order, as well as any local comprehensive plan amendment or map amendment.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 35-4; House 91-26

THE FLORIDA SENATE
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Committee on Community Affairs

SB 942 — Authorization of Restrictions Concerning Dogs

by Senators Calatayud, Martin, and Rodriguez

Local governments may adopt ordinances to address safety and welfare concerns stemming from dog attacks on people or domestic animals, placing restrictions and additional requirements on owners of dangerous dogs, provided that no regulations may be breed-specific. The bill adds size and weight to the prohibited dog characteristics a local government may not use to regulate dogs in its jurisdiction, and places the same restrictions on public housing authorities.

The bill also removes the provision in statute allowing local governments to enforce dog breed-specific regulations if such regulation was enacted by ordinance before October 1, 1990. Local governments known to be affected by this change include Miami-Dade County and the City of Sunrise.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect October 1, 2023.

Vote: Senate 39-1; House 116-0

THE FLORIDA SENATE
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Committee on Community Affairs

CS/CS/HB 1281 — Preemption Over Utility Service Restrictions

by Commerce Committee; Energy, Communications and Cybersecurity Subcommittee; and Rep. Buchanan and others (CS/SB 1256 by Community Affairs Committee and Senator Collins)

The bill preempts local governments from restricting or prohibiting the use of any appliance, including a stove or grill, which uses any type of fuel source, except as necessary to enforce the Florida Building Code or Florida Fire Prevention Code. “Appliance” is defined as any device or apparatus, manufactured and designed to use energy, for which the Florida Building Code or Florida Fire Prevention Code provides specific requirements.

If approved by the Governor, or allowed to become law without the Governor’s signature, these provisions take effect July 1, 2023.

Vote: Senate 33-4; House 98-16

THE FLORIDA SENATE
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Committee on Community Affairs

HB 1373 — County Constitutional Officers

by Rep. Fernandez-Barquin and others (SB 1490 by Senator Garcia)

The bill prohibits a county from creating or authorizing any office, special district, or governmental unit to exercise any power or authority allocated by the Florida Constitution or general law exclusively to a county officer. A county commissioner who votes in favor of a proposed ordinance for such a creation or expansion of powers commits misfeasance or malfeasance in office. If a county adopts such an ordinance, the state may withhold all or part of any distribution under local government revenue sharing.

The bill allows a sheriff, tax collector, property appraiser, supervisor of elections, clerk of the court, or any resident of a county to bring an action in circuit court against a county for the adoption of such an ordinance. The bill provides that a court may award declaratory and injunctive relief, damages, and costs, including reasonable attorney fees, to a prevailing party other than the county. The bill also prohibits a county from including funding in its budget for any office, special district, or governmental unit exercising any power or authority allocated exclusively to a county officer by the Florida Constitution or general law.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 39-0; House 113-3

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/HB 1575 — Public Safety Emergency Communications Systems

by Commerce Committee and Rep. Brackett and others (CS/SB 1614 by Banking and Insurance Committee and Senator Rodriguez)

Local fire authorities set standards for radio signal strength in buildings within their jurisdiction to ensure consistent fire and rescue communication capabilities. Two-way radio communication enhancement systems (enhancement systems) are post-construction systems that accept and amplify first responders' radio signals so that the radio signal strength at ground level is equal to the radio signal strength in all locations throughout the building.

The bill limits when a local authority can require signal strength assessment and installation of an enhancement system, as follows:

- An enhancement system may not be required if the radio signal strength at the exterior of the building is inadequate.
- Unless the building undergoes significant renovation or poses a safety threat, a signal strength assessment may be required no more often than every five years, or every three years for high-rise buildings or buildings exceeding 12,000 square feet.
- If an enhancement system is required after assessment of a new building, a contractor must submit a design for the system to the local authority, who must require installation of the system within 12 months after the issuance of temporary certificate of occupancy. If an existing building requires an enhancement system, the building owner must be granted at least one year to do so.
- Certain structures are not required to meet radio signal strength requirements at any time, including one- and two-family dwellings, buildings smaller than 12,000 square feet with no underground areas, and certain apartments and public lodging establishments.
- Local fire authorities may not enforce more stringent requirements than the Florida Fire Prevention Code provides regarding radio signal strength.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect July 1, 2023.

Vote: Senate 38-0; House 115-0

THE FLORIDA SENATE
2023 SUMMARY OF LEGISLATION PASSED

Committee on Community Affairs

CS/CS/SB 1604 — Land Use and Development Regulations

by Rules Committee; Community Affairs Committee; and Senator Ingoglia

The bill (Chapter 2023-31, L.O.F.) makes various changes to current law pertaining to local government comprehensive planning, independent special district development agreements, and local regulation of electrical substation siting.

Comprehensive Planning

The bill revises local comprehensive planning requirements by increasing the two required planning periods to a 10-year and 20-year period, from 5 and 10, and prohibiting local governments that fail to update their comprehensive plans in accordance with the 7-year evaluation and appraisal process from initiating or adopting any publicly-initiated plan amendments. Additionally, the bill prescribes certain procedures for the Department of Economic Opportunity to apply when local governments remain out of compliance with comprehensive planning updates.

The bill also removes local governments' ability to require specified "building design elements" for residential dwellings in planned unit developments, master planned communities, and communities with a design review board or architectural review board created on or after January 1, 2020. "Building design elements" mean the external building color; the type or style of exterior cladding material; the style or material of roof structures or porches; the exterior nonstructural architectural ornamentation; the location or architectural styling of windows or doors; the location or orientation of the garage; the number and type of rooms; and the interior layout of rooms.

Development Agreements

Effective upon becoming a law, the bill precludes independent special districts from complying with the terms of any development agreement which is executed within three months preceding a law modifying the manner of selecting members of the governing body of the special district from election to appointment or appointment to election. The newly elected or appointed governing body of the special district must review within four months of taking office any such development agreement and vote on whether to seek readoption of the agreement. These provisions expire on July 1, 2028, unless reviewed and reenacted by the Legislature.

Electrical Substations

"Distribution electrical substation" is defined in current law as an electrical substation which takes electricity from the transmission grid and converts it to a lower voltage so it can be distributed to customers in the local area on the local distribution grid through one or more distribution lines less than 69 kilovolts in size.

The construction of new “distribution electrical substations” is a permitted use in all future land use categories and zoning districts, with certain exceptions. Local governments may adopt reasonable land development regulations for new substations, addressing only setback, landscaping, buffering, screening, lighting, and other aesthetic compatibility-based standards.

The bill modifies the term “distribution electrical substation” to include accessory administration or maintenance buildings and related accessory uses and structures. It also removes reference to “distribution” and the kilovolt limitation, applying the local regulation limitations to electric substations of all sizes, i.e., distribution and transmission substations. Additionally, the bill makes the electric substation approval process applicable to existing substations, as well as new ones, and removes the ability for local governments to adopt reasonable land development regulations for solar substations.

These provisions were approved by the Governor and take effect July 1, 2023, except as otherwise provided.

Vote: Senate 27-13; House 75-34