

1 A bill to be entitled
 2 An act relating to local government; amending s. 163.3167, F.S.;
 3 limiting effect of judicial determinations concerning certain
 4 development orders pursuant to adopted land development
 5 regulations under the Local Government Comprehensive Planning
 6 and Land Development Regulation Act; providing an exception;
 7 providing for retroactive application; amending s. 163.3174,
 8 F.S.; providing procedures for certain municipalities to
 9 exercise exclusive land use planning authority on a municipal
 10 basis; providing for a referendum; providing for additional
 11 amendment of a municipality's comprehensive plan; providing for
 12 continuation of development orders issued by a charter county;
 13 providing conditions for future changes in level of service;
 14 providing for application; providing an effective date.

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

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 18 Section 1. Subsection (13) is added to section 163.3167,
 19 Florida Statutes, to read:

20 163.3167 Scope of act.--

21 (13)(a) If a local government grants a development order
 22 pursuant to its adopted land development regulations and the
 23 order is not the subject of a pending appeal and the timeframe
 24 for filing an appeal has expired, the development order is not
 25 invalidated if there is a subsequent judicial determination that
 26 said land development regulations, or any portion thereof that
 27 is relevant to the development order, are invalid because of a
 28 deficiency in the approval standards.

CODING: Words **stricken** are deletions; words **underlined** are additions.

29 (b) This subsection does not preclude or affect the timely
 30 institution of any other remedy available at law or equity,
 31 including a common law writ of certiorari proceeding pursuant to
 32 Rule 9.190, Florida Rules of Appellate Procedure, or an original
 33 proceeding pursuant to s. 163.3215, as applicable.

34 (c) This subsection applies retroactively to any
 35 development order granted on or after January 1, 2002.

36 Section 2. Paragraphs (c) and (d) are added to subsection
 37 (1) of section 163.3174, Florida Statutes, to read:

38 163.3174 Local planning agency.--

39 (1) The governing body of each local government,
 40 individually or in combination as provided in s. 163.3171, shall
 41 designate and by ordinance establish a "local planning agency,"
 42 unless the agency is otherwise established by law.

43 Notwithstanding any special act to the contrary, all local
 44 planning agencies or equivalent agencies that first review
 45 rezoning and comprehensive plan amendments in each municipality
 46 and county shall include a representative of the school district
 47 appointed by the school board as a nonvoting member of the local
 48 planning agency or equivalent agency to attend those meetings at
 49 which the agency considers comprehensive plan amendments and
 50 rezonings that would, if approved, increase residential density
 51 on the property that is the subject of the application. However,
 52 this subsection does not prevent the governing body of the local
 53 government from granting voting status to the school board
 54 member. The governing body may designate itself as the local
 55 planning agency pursuant to this subsection with the addition of
 56 a nonvoting school board representative. The governing body

57 | shall notify the state land planning agency of the establishment
58 | of its local planning agency. All local planning agencies shall
59 | provide opportunities for involvement by applicable community
60 | college boards, which may be accomplished by formal
61 | representation, membership on technical advisory committees, or
62 | other appropriate means. The local planning agency shall prepare
63 | the comprehensive plan or plan amendment after hearings to be
64 | held after public notice and shall make recommendations to the
65 | governing body regarding the adoption or amendment of the plan.
66 | The agency may be a local planning commission, the planning
67 | department of the local government, or other instrumentality,
68 | including a countywide planning entity established by special
69 | act or a council of local government officials created pursuant
70 | to s. 163.02, provided the composition of the council is fairly
71 | representative of all the governing bodies in the county or
72 | planning area; however:

73 | (c) In recognition of the need to allow municipalities in
74 | highly populated urban counties in which most of the population
75 | of the county is located within municipalities to address land
76 | use planning issues on a municipal basis, in a charter county
77 | that has a population greater than 1.5 million people and has
78 | less than 10 percent of the countywide population within the
79 | unincorporated area of the county, the municipalities within
80 | such county shall, except as otherwise expressly provided in
81 | this paragraph, have the option to exercise exclusive land use
82 | planning authority. This exclusive land use planning authority
83 | includes platting, zoning, the adoption and amendment of
84 | comprehensive plans in accordance with this act, and the

85 | issuance of development orders for the area under municipal
86 | jurisdiction. The exercise of this option shall require the
87 | municipality to adopt a resolution approving the exercise of
88 | exclusive land use planning authority and submit to the
89 | electorate of the municipality a ballot question which states:
90 | "Shall the (Name of Municipality) exercise exclusive land use
91 | planning authority within (Name of Municipality) for platting,
92 | zoning, the adoption and amendment of comprehensive plans, and
93 | the issuance of development orders?" If the ballot question is
94 | approved by a majority of those qualified voters casting a vote
95 | on the question, the municipality shall have exclusive land use
96 | planning authority effective 90 days following voter approval. A
97 | municipality whose land use planning authority becomes exclusive
98 | pursuant to this paragraph may amend its comprehensive plan one
99 | additional time in the year in which its land use planning
100 | authority becomes exclusive or in the following year, without
101 | regard to the twice-a-year restriction in s. 163.3187(1), to
102 | provide for amendments the municipality determines to be
103 | necessary or appropriate for the transition. Development orders
104 | issued by a charter county within a municipality prior to the
105 | municipality's assuming exclusive land use planning authority
106 | shall remain valid for the effective period of the development
107 | order unless an application for an amendment to the development
108 | order is approved by the municipality in accordance with the
109 | procedures of the municipality for amending development orders.
110 | This paragraph does not affect the authority of a charter county
111 | subject to this paragraph to adopt and enforce countywide impact
112 | fees. Effective upon a municipality's obtaining exclusive land

113 use planning authority pursuant to this provision, the level of
 114 service for county facilities in the municipality shall be the
 115 level of service that was applied by the county on the date that
 116 the municipality adopted the resolution approving the exercise
 117 of exclusive land use planning authority and submitting the
 118 ballot question to the electorate of the municipality. In order
 119 for any future change in level of service for county facilities
 120 to become effective within a municipality that obtains exclusive
 121 land use planning authority pursuant to this paragraph, the
 122 change in the level of service shall require the approval of
 123 both the affected municipality and the county, as evidenced by
 124 both the municipality and county's adopting the amended level of
 125 service for the county facilities into their respective
 126 comprehensive plans. In a municipality that obtains exclusive
 127 land use planning authority, the county shall, if requested by
 128 the municipality and upon the payment of a reasonable fee,
 129 review and advise the municipality as to whether proposed
 130 mitigation of traffic impacts that are to be provided by
 131 improvements to county roadways meet the county's permit
 132 criteria for improvements to county roadways. Nothing in this
 133 paragraph shall be interpreted to affect a county's permit
 134 authority with respect to county roadways. This paragraph
 135 applies notwithstanding any other law.

136 (d) A charter county that is not subject to paragraph (c)
 137 may exercise such authority over municipalities and districts
 138 within its boundaries as provided for in its charter.

139 Section 3. This act shall take effect upon becoming a law.