

1 A bill to be entitled
2 An act relating to local government; amending
3 s. 163.3167, F.S.; limiting the effect of
4 judicial determinations concerning certain
5 development orders pursuant to adopted land
6 development regulations under the Local
7 Government Comprehensive Planning and Land
8 Development Regulation Act; providing an
9 exception; providing for retroactive
10 application; amending s. 163.3174, F.S.;
11 allowing municipalities in highly populated
12 urban charter counties with a population
13 greater than a specified number to have the
14 option to exercise exclusive land use planning
15 authority, including over the unincorporated
16 area of the county; providing that the land use
17 authority includes platting, zoning, and the
18 adoption and amendment of comprehensive plan;
19 requiring the municipality to adopt a
20 resolution approving the exercise of exclusive
21 land use planning authority and to submit to a
22 ballot question to the electorate; providing an
23 effective date.

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

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27 Section 1. Subsection (13) is added to section
28 163.3167, Florida Statutes, to read:
29 163.3167 Scope of act.--
30 (13)(a) If a local government grants a development
31 order pursuant to its adopted land development regulations and

1 the order is not the subject of a pending appeal and the
2 timeframe for filing an appeal has expired, the development
3 order may not be invalidated by a subsequent judicial
4 determination that such land development regulations, or any
5 portion thereof that is relevant to the development order, are
6 invalid because of a deficiency in the approval standards.

7 (b) This subsection does not preclude or affect the
8 timely institution of any other remedy available at law or
9 equity, including a common law writ of certiorari proceeding
10 pursuant to Rule 9.190, Florida Rules of Appellate Procedure,
11 or an original proceeding pursuant to s. 163.3215, as
12 applicable.

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

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

17 163.3174 Local planning agency.--

18 (1) The governing body of each local government,
19 individually or in combination as provided in s. 163.3171,
20 shall designate and by ordinance establish a "local planning
21 agency," unless the agency is otherwise established by law.
22 Notwithstanding any special act to the contrary, all local
23 planning agencies or equivalent agencies that first review
24 rezoning and comprehensive plan amendments in each
25 municipality and county shall include a representative of the
26 school district appointed by the school board as a nonvoting
27 member of the local planning agency or equivalent agency to
28 attend those meetings at which the agency considers
29 comprehensive plan amendments and rezonings that would, if
30 approved, increase residential density on the property that is
31 the subject of the application. However, this subsection does

1 not prevent the governing body of the local government from
2 granting voting status to the school board member. The
3 governing body may designate itself as the local planning
4 agency pursuant to this subsection with the addition of a
5 nonvoting school board representative. The governing body
6 shall notify the state land planning agency of the
7 establishment of its local planning agency. All local planning
8 agencies shall provide opportunities for involvement by
9 applicable community college boards, which may be accomplished
10 by formal representation, membership on technical advisory
11 committees, or other appropriate means. The local planning
12 agency shall prepare the comprehensive plan or plan amendment
13 after hearings to be held after public notice and shall make
14 recommendations to the governing body regarding the adoption
15 or amendment of the plan. The agency may be a local planning
16 commission, the planning department of the local government,
17 or other instrumentality, including a countywide planning
18 entity established by special act or a council of local
19 government officials created pursuant to s. 163.02, provided
20 the composition of the council is fairly representative of all
21 the governing bodies in the county or planning area; however:

22 (a) If a joint planning entity is in existence on the
23 effective date of this act which authorizes the governing
24 bodies to adopt and enforce a land use plan effective
25 throughout the joint planning area, that entity shall be the
26 agency for those local governments until such time as the
27 authority of the joint planning entity is modified by law.

28 (b) In the case of chartered counties, the planning
29 responsibility between the county and the several
30 municipalities therein shall be as stipulated in the charter.

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1 (c) In recognition of the need to allow municipalities
2 in highly populated urban counties in which most of the
3 population of the county is located within municipalities to
4 address land use planning issues on a municipal basis, in
5 charter counties that have populations greater than 1.5
6 million people and have less than 10 percent of the countywide
7 population within the unincorporated area of the county, the
8 municipalities within such counties shall, except as otherwise
9 expressly provided in this paragraph, have the option to
10 exercise exclusive land use planning authority. This exclusive
11 land use planning authority includes, platting, zoning, the
12 adoption and amendment of comprehensive plans in accordance
13 with this act and the issuance of development orders for the
14 area under municipal jurisdiction. the exercise of this option
15 shall require the municipality to adopt a resolution approving
16 the exercise of exclusive land use planning authority and
17 submit to the electorate of the municipality a ballot question
18 which states, "Shall the (Name of Municipality) exercise
19 exclusive land use planning authority within (Name of
20 Municipality) for platting, zoning, the adoption and amendment
21 of comprehensive plans and the issuance of development order".
22 If the ballot question is approved by a majority of those
23 casting a vote on the question, the municipality shall have
24 exclusive land use planning authority effective ninety (90)
25 days following voter approval. Municipalities whose land use
26 planning authority becomes exclusive pursuant to this
27 paragraph may amend their comprehensive plans one additional
28 time in the year in which its land use planning authority
29 becomes exclusive or in the following year, without regard to
30 the twice-a-year restriction in s. 163.3187(1), to provide for
31 amendments the municipality determines to be necessary or

1 appropriate for the transition. Development orders issued by a
2 charter county within a municipality prior to the municipality
3 assuming exclusive land use planning authority shall remain
4 valid for the effective period of the development order unless
5 an application for an amendment to the development order is
6 approved by the municipality in accordance with the procedures
7 of the municipality for amending development orders. This
8 paragraph does not affect the authority of a charter county
9 subject to this paragraph to adopt and enforce countywide
10 impact fees. Effective upon a municipality obtaining exclusive
11 land use planning authority pursuant to this provision, the
12 level of service for county facilities in the municipalities
13 shall be the level of service that was applied by the county
14 on the date that the municipality adopted the resolution
15 approving the exercise of exclusive land use planning
16 authority and submitting the ballot question to the electorate
17 of the municipality. In order for any future change in level
18 of service for county facilities to become effective within a
19 municipality that obtains exclusive land use planning
20 authority pursuant to this provision, the change in the level
21 of service shall require the approval of both the affected
22 municipality and the county, as evidenced by both the
23 municipality and county adopting the amended level of service
24 for the county facilities into their respective comprehensive
25 plans. In municipalities that obtain exclusive land use
26 planning authority, the county shall, if requested by the
27 municipality, and upon the payment of a reasonable fee, review
28 and advise the municipality as to whether proposed mitigation
29 of traffic impacts that are to be provided by improvements to
30 county roadways meet the county's permit criteria for
31 improvements to county roadways. Nothing in this paragraph

1 shall be interpreted to affect a county's permit authority
2 with respect to county roadways. This paragraph applies
3 notwithstanding any other law.

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

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

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