

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representatives Pickens, Allen, Bowen, Cannon, Grimsley,
2 Poppell, Proctor, Sansom, Stansel, and Troutman offered the
3 following:

4
5 **Substitute Amendment for Amendment (706591) (with title**
6 **amendment)**

7 Between lines 25 and 26 insert:

8 Section 5. Paragraphs (a) and (c) of subsection (4) and
9 paragraph (a) of subsection (5) of section 70.001, Florida
10 Statutes, are amended to read:

11 70.001 Private property rights protection.--

12 (4)(a) Not less than 180 days prior to filing an action
13 under this section against a governmental entity, a property
14 owner who seeks compensation under this section must present the
15 claim in writing to the head of the governmental entity, except

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16 | that if the property is classified as agricultural pursuant to
17 | s. 193.461, the notice period is 90 days. The property owner
18 | must submit, along with the claim, a bona fide, valid appraisal
19 | that supports the claim and demonstrates the loss in fair market
20 | value to the real property. If the action of government is the
21 | culmination of a process that involves more than one
22 | governmental entity, or if a complete resolution of all relevant
23 | issues, in the view of the property owner or in the view of a
24 | governmental entity to whom a claim is presented, requires the
25 | active participation of more than one governmental entity, the
26 | property owner shall present the claim as provided in this
27 | section to each of the governmental entities.

28 | (c) During the 90-day-notice period or the 180-day-notice
29 | period, unless extended by agreement of the parties, the
30 | governmental entity shall make a written settlement offer to
31 | effectuate:

32 | 1. An adjustment of land development or permit standards
33 | or other provisions controlling the development or use of land.

34 | 2. Increases or modifications in the density, intensity,
35 | or use of areas of development.

36 | 3. The transfer of developmental rights.

37 | 4. Land swaps or exchanges.

38 | 5. Mitigation, including payments in lieu of onsite
39 | mitigation.

40 | 6. Location on the least sensitive portion of the
41 | property.

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42 7. Conditioning the amount of development or use
43 permitted.

44 8. A requirement that issues be addressed on a more
45 comprehensive basis than a single proposed use or development.

46 9. Issuance of the development order, a variance, special
47 exception, or other extraordinary relief.

48 10. Purchase of the real property, or an interest therein,
49 by an appropriate governmental entity.

50 11. No changes to the action of the governmental entity.
51

52 If the property owner accepts the settlement offer, the
53 governmental entity may implement the settlement offer by
54 appropriate development agreement; by issuing a variance,
55 special exception, or other extraordinary relief; or by other
56 appropriate method, subject to paragraph (d).

57 (5)(a) During the 90-day-notice period or the 180-day-
58 notice period, unless a settlement offer is accepted by the
59 property owner, each of the governmental entities provided
60 notice pursuant to paragraph (4)(a) shall issue a written
61 ripeness decision identifying the allowable uses to which the
62 subject property may be put. The failure of the governmental
63 entity to issue a written ripeness decision during the
64 applicable 90-day-notice period or 180-day-notice period shall
65 be deemed to ripen the prior action of the governmental entity,
66 and shall operate as a ripeness decision that has been rejected
67 by the property owner. The ripeness decision, as a matter of
68 law, constitutes the last prerequisite to judicial review, and

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69 the matter shall be deemed ripe or final for the purposes of the
70 judicial proceeding created by this section, notwithstanding the
71 availability of other administrative remedies.

72 Section 6. Subsection (5) is added to section 163.3162,
73 Florida Statutes, to read:

74 163.3162 Agricultural Lands and Practices Act.--

75 (5)(a) The owner of a parcel of land defined as an
76 agricultural enclave under s. 163.3164(32)(e)1. may apply for an
77 amendment to the local government comprehensive plan pursuant to
78 s. 163.3187. Such amendment is not subject to rule 9J-5.006(5),
79 Florida Administrative Code, and may include land uses and
80 intensities of use that are consistent with the uses and
81 intensities of use of the industrial, commercial, or residential
82 areas that surround the parcel. The local government shall make
83 a determination regarding transmittal of such amendment within
84 120 days after receipt of a complete application for the
85 amendment and transmit the amendment to the state land planning
86 agency for review pursuant to s. 163.3184 at the first available
87 transmittal cycle. The state land planning agency may not use
88 any provision of rule 9J-5.006(5), Florida Administrative Code,
89 as a factor in determining compliance of an amendment under this
90 paragraph.

91 (b) In order to preserve commercial agricultural activity,
92 encourage mixed-use infill development, prevent urban sprawl,
93 and provide more efficient delivery of municipal services and
94 facilities, the owner of a parcel of land defined as an
95 agricultural enclave under s. 163.3164(32)(e)2. may apply for an

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96 amendment to the local government comprehensive plan pursuant to
97 s. 163.3187. Such amendment is not subject to rule 9J-5.006(5),
98 Florida Administrative Code, and may include land uses and
99 intensities of use that are consistent with the uses and
100 intensities of use of the industrial, commercial, or residential
101 areas that surround the parcel. Each application for a
102 comprehensive plan amendment under this paragraph must include
103 appropriate new urbanism concepts such as clustering, mixed-use
104 development, the creation of rural village and city centers, and
105 the transfer of development rights in order to discourage urban
106 sprawl while protecting landowner rights.

107 1. The local government and the owner of a parcel of land
108 that is the subject of an application for an amendment under
109 this paragraph have 180 days following the date that the local
110 government receives a complete application to negotiate in good
111 faith to reach consensus on the land uses and intensities of use
112 that are consistent with the uses and intensities of use of the
113 industrial, commercial, or residential areas that surround the
114 parcel. Within 30 days after the local government's receipt of
115 such an application, the local government and owner must agree
116 in writing to a schedule for information submittal, public
117 hearings, negotiations, and final action on the amendment, which
118 schedule may thereafter be altered only with the written consent
119 of the local government and the owner. Compliance with the
120 schedule in the written agreement constitutes good faith
121 negotiations for purposes of subparagraph 3.

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122 2. Upon conclusion of good faith negotiations under
123 subparagraph 1., regardless of whether the local government and
124 owner reach consensus on the land uses and intensities of use
125 that are consistent with the uses and intensities of use of the
126 industrial, commercial, or residential areas that surround the
127 parcel, the amendment must be transmitted to the state land
128 planning agency for review pursuant to s. 163.3184. If the local
129 government fails to transmit the amendment within 180 days after
130 receipt of a complete application, the amendment must be
131 immediately transferred to the state land planning agency for
132 such review at the first available transmittal cycle. The state
133 land planning agency may not use any provision of rule 9J-
134 5.006(5), Florida Administrative Code, as a factor in
135 determining compliance of an amendment under this paragraph.

136 3. If the owner fails to negotiate in good faith, rule 9J-
137 5.006(5), Florida Administrative Code, shall apply throughout
138 the negotiation and amendment process under this paragraph.

139 (c) Nothing within this subsection relating to
140 agricultural enclaves shall preempt or replace any protection
141 currently existing for any property located within the
142 boundaries of the following areas:

- 143 1. The Wekiva Study Area, as described in s. 369.316; or
144 2. The Everglades Protection Area, as defined in s.
145 373.4592(2).

146 Section 7. Subsection (32) is added to section 163.3164,
147 Florida Statutes, to read:

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148 163.3164 Local Government Comprehensive Planning and Land
149 Development Regulation Act; definitions.--As used in this act:

150 (32) "Agricultural enclave" means an unincorporated,
151 undeveloped parcel that:

152 (a) Is owned by a single person or entity;

153 (b) Has been in continuous use for bona fide agricultural
154 purposes, as defined by s. 193.461, for a period of 5 years
155 prior to the date of any comprehensive plan amendment
156 application;

157 (c) Is surrounded on at least 75 percent of its perimeter
158 by:

159 1. Property that has existing industrial, commercial, or
160 residential development; or

161 2. Property that the local government has designated, in
162 the local government's comprehensive plan, zoning map, and
163 future land use map, as land that is to be developed for
164 industrial, commercial, or residential purposes, and at least 75
165 percent of such property is existing industrial, commercial, or
166 residential development,

167 (d) Has public services, including water, wastewater,
168 transportation, schools, and recreation facilities, available or
169 such public services are scheduled to be provided as part of a
170 financially feasible 5-year schedule of capital improvements
171 that is adopted by the local government or by an alternative
172 provider of local government infrastructure; and

173 (e) Satisfies one of the following acreage criteria:

174 1. The parcel may not exceed 500 acres or;

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175 2. The parcel may not exceed 2,560 acres, however, if the
176 parcel is in active agriculture production and is located in a
177 county, any portion of which is under a declared quarantine
178 pursuant to chapter 581 or chapter 585, the parcel may not
179 exceed 5,120 acres.

180 Section 8. Section 259.047, Florida Statutes, is created
181 to read:

182 259.047 Acquisition of land on which an agricultural lease
183 exists.--

184 (1) When land with an existing agricultural lease is
185 acquired in fee simple pursuant to this chapter or chapter 375,
186 the existing agricultural lease may continue in force for the
187 actual time remaining on the lease agreement. Any entity
188 managing lands acquired under this section must consider
189 existing agricultural leases in the development of a land
190 management plan required under s. 253.034.

191 (2) Where consistent with the purposes for which the
192 property was acquired, the state or acquiring entity shall make
193 reasonable efforts to keep lands in agricultural production
194 which are in agricultural production at the time of acquisition.

195 Section 9. Paragraph (a) of subsection (2) of section
196 373.0361, Florida Statutes, is amended to read:

197 373.0361 Regional water supply planning.--

198 (2) Each regional water supply plan shall be based on at
199 least a 20-year planning period and shall include, but not be
200 limited to:

201 (a) A water supply development component that includes:

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202 1. A quantification of the water supply needs for all
203 existing and reasonably projected future uses within the
204 planning horizon. The level-of-certainty planning goal
205 associated with identifying the water supply needs of existing
206 and future reasonable-beneficial uses shall be based upon
207 meeting those needs for a 1-in-10-year drought event. Population
208 projections used for determining public water supply needs must
209 be based upon the best available data. In determining the best
210 available data, the district shall consider the University of
211 Florida's Bureau of Economic and Business Research (BEBR) medium
212 population projections and any population projection data and
213 analysis submitted by a local government pursuant to the public
214 workshop described in subsection (1) if the data and analysis
215 support the local government's comprehensive plan. Any
216 adjustment of or deviation from the BEBR projections must be
217 fully described, and the original BEBR data must be presented
218 along with the adjusted data.

219 2. A list of water source options, including traditional
220 and alternative source options, from which local government,
221 government-owned and privately owned utilities, self-suppliers,
222 and others may choose, for water supply development, the total
223 capacity of which will, in conjunction with water conservation
224 and other demand management measures, exceed the needs
225 identified in subparagraph 1. The list of water-source options
226 for water supply development must contain provisions that
227 recognize that alternative water-source options for agricultural
228 self-suppliers are limited.

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229 3. For each option listed in subparagraph 2., the
230 estimated amount of water available for use and the estimated
231 costs of and potential sources of funding for water supply
232 development.

233 4. A list of water supply development projects that meet
234 the criteria in s. 373.0831(4).

235
236 The water supply development component of a regional water
237 supply plan which deals with or affects public utilities and
238 public water supply for those areas served by a regional water
239 supply authority and its member governments within the
240 boundaries of the Southwest Florida Water Management District
241 shall be developed jointly by the authority and the district.

242 Section 10. Section 373.2234, Florida Statutes, is amended
243 to read:

244 373.2234 Preferred water supply sources.--The governing
245 board of a water management district is authorized to adopt
246 rules that identify preferred water supply sources for
247 consumptive uses for which there is sufficient data to establish
248 that a preferred source will provide a substantial new water
249 supply to meet the existing and projected reasonable-beneficial
250 uses of a water supply planning region identified pursuant to s.
251 373.0361(1), while sustaining existing water resources and
252 natural systems. At a minimum, such rules must contain a
253 description of the preferred water supply source and an
254 assessment of the water the preferred source is projected to
255 produce. If an applicant proposes to use a preferred water

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256 supply source, that applicant's proposed water use is subject to
257 s. 373.223(1), except that the proposed use of a preferred water
258 supply source must be considered by a water management district
259 when determining whether a permit applicant's proposed use of
260 water is consistent with the public interest pursuant to s.
261 373.223(1)(c). A consumptive use permit issued for the use of a
262 preferred water supply source must be granted, when requested by
263 the applicant, for at least a 20-year period and may be subject
264 to the compliance reporting provisions of s. 373.236(4)~~(3)~~.
265 Nothing in this section shall be construed to exempt the use of
266 preferred water supply sources from the provisions of ss.
267 373.016(4) and 373.223(2) and (3), or be construed to provide
268 that permits issued for the use of a nonpreferred water supply
269 source must be issued for a duration of less than 20 years or
270 that the use of a nonpreferred water supply source is not
271 consistent with the public interest. Additionally, nothing in
272 this section shall be interpreted to require the use of a
273 preferred water supply source or to restrict or prohibit the use
274 of a nonpreferred water supply source. Rules adopted by the
275 governing board of a water management district to implement this
276 section shall specify that the use of a preferred water supply
277 source is not required and that the use of a nonpreferred water
278 supply source is not restricted or prohibited.

279 Section 11. Present subsections (2) and (3) of section
280 373.236, Florida Statutes, are renumbered as subsections (3) and
281 (4), respectively, and a new subsection (2) is added to that
282 section, to read:

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373.236 Duration of permits; compliance reports.--

(2) The Legislature finds that some agricultural landowners remain unaware of their ability to request a 20-year consumptive use permit under subsection (1) for initial permits or for renewals. Therefore, the water management districts shall inform agricultural applicants of this option in the application form.

Section 12. Section 373.407, Florida Statutes, is created to read:

373.407 Memorandum of agreement for an agricultural-related exemption.--No later than July 1, 2006, the Department of Agriculture and Consumer Services and each water management district shall enter into a memorandum of agreement under which the Department of Agricultural and Consumer Services shall assist in a determination by a water management district as to whether an existing or proposed activity qualifies for the exemption in s. 373.406(2). The memorandum of agreement shall provide a process by which, upon the request of a water management district, the Department of Agriculture and Consumer Services shall conduct a nonbinding review as to whether an existing or proposed activity qualifies for an agricultural-related exemption in s. 373.406(2). The memorandum of agreement shall provide processes and procedures by which the Department of Agriculture and Consumer Services shall undertake this review effectively and efficiently and issue a recommendation.

===== T I T L E A M E N D M E N T =====

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310 Remove lines 2 through 23 and insert:
311 An act relating to agriculture; requiring each water
312 management district to review rule criteria for
313 environmental resource permits, existing permit
314 exemptions, and alternatives to standard permitting
315 programs and recommend regulatory alternatives that will
316 encourage agricultural water conservation; requiring a
317 report by the Department of Agriculture and Consumer
318 Services and the Department of Environmental Protection to
319 the appropriate legislative committees; amending s.
320 373.236, F.S.; authorizing the issuance of permits for
321 agricultural production for a specified period for uses
322 that replace a water supply source that has been impacted
323 by water-use withdrawals; amending s. 373.406, F.S.;
324 providing that an exemption provided for activities having
325 minimal adverse impact does not apply to any activities
326 that are conducted as mitigation for wetland or other
327 surface water impacts; amending s. 373.2234, F.S.;
328 conforming a cross-reference; amending s. 70.001, F.S.;
329 reducing the period within which an owner of agricultural
330 land must provide notice of a claim prior to filing an
331 action against a governmental entity regarding private
332 property rights; amending s. 163.3162, F.S.; providing for
333 application for an amendment to the local comprehensive
334 plan by the owner of land that meets certain provisions of
335 the definition of an agricultural enclave; providing
336 requirements relating to such applications; exempting

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337 certain amendments from specified rules of the Department
338 of Community Affairs under certain circumstances; amending
339 s. 163.3164, F.S.; defining the term "agricultural
340 enclave" for purposes of the Local Government
341 Comprehensive Planning and Land Development Regulation
342 Act; creating s. 259.047, F.S.; providing requirements
343 relating to the purchase of land on which an agricultural
344 lease exists; amending s. 373.0361, F.S.; providing for
345 recognition that alternative water-source options for
346 agricultural self-suppliers are limited; amending s.
347 373.2234, F.S.; conforming a cross-reference; amending s.
348 373.236, F.S.; requiring water management districts to
349 inform landowners of the option to obtain certain
350 consumptive use permits; creating s. 373.407, F.S.;
351 providing for memoranda of agreement regarding
352 qualification for agricultural-related exemptions;
353 providing an

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