

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Pickens, Allen, Bowen, Cannon, Grimsley,  
2 Poppell, Proctor, Sansom, Stansel, and Troutman offered the  
3 following:

**Amendment to Amendment (882799) (with title amendment)**

Between lines 4265 and 4266 insert:

Section 41. Paragraphs (a) and (c) of subsection (4) and  
paragraph (a) of subsection (5) and of section 70.001, Florida  
Statutes, are amended to read:

70.001 Private property rights protection.--

(4)(a) Not less than 180 days prior to filing an action  
under this section against a governmental entity, a property  
owner who seeks compensation under this section must present the  
claim in writing to the head of the governmental entity, except  
that if the property is classified as agricultural pursuant to

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

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

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

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

35 | 3. The transfer of developmental rights.

36 | 4. Land swaps or exchanges.

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

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

41 | 7. Conditioning the amount of development or use  
42 | permitted.

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

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

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

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

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

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

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69 judicial proceeding created by this section, notwithstanding the  
70 availability of other administrative remedies.

71 Section 42. Subsection (5) is added to section 163.3162,  
72 Florida Statutes, to read:

73 163.3162 Agricultural Lands and Practices Act.--

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

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

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

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

121 2. Upon conclusion of good faith negotiations under  
122 subparagraph 1., regardless of whether the local government and

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

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

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

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

145 Section 43. Subsection (32) is added to section 163.3164,  
146 Florida Statutes, to read:

147 163.3164 Local Government Comprehensive Planning and Land  
148 Development Regulation Act; definitions.--As used in this act:

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

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

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

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

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

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

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

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

173 1. The qualified parcel may not exceed 500 acres or;

174 2. The qualified parcel may not exceed 2,560 acres.

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175 Section 44. Section 259.047, Florida Statutes, is created  
176 to read:

177 259.047 Acquisition of land on which an agricultural lease  
178 exists.--

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

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

190 Section 45. Paragraph (a) of subsection (2) of section  
191 373.0361, Florida Statutes, is amended to read:

192 373.0361 Regional water supply planning.--

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

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

197 1. A quantification of the water supply needs for all  
198 existing and reasonably projected future uses within the  
199 planning horizon. The level-of-certainty planning goal  
200 associated with identifying the water supply needs of existing  
201 and future reasonable-beneficial uses shall be based upon

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202 meeting those needs for a 1-in-10-year drought event. Population  
203 projections used for determining public water supply needs must  
204 be based upon the best available data. In determining the best  
205 available data, the district shall consider the University of  
206 Florida's Bureau of Economic and Business Research (BEBR) medium  
207 population projections and any population projection data and  
208 analysis submitted by a local government pursuant to the public  
209 workshop described in subsection (1) if the data and analysis  
210 support the local government's comprehensive plan. Any  
211 adjustment of or deviation from the BEBR projections must be  
212 fully described, and the original BEBR data must be presented  
213 along with the adjusted data.

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

224         3. For each option listed in subparagraph 2., the  
225 estimated amount of water available for use and the estimated  
226 costs of and potential sources of funding for water supply  
227 development.

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

230  
231 The water supply development component of a regional water  
232 supply plan which deals with or affects public utilities and  
233 public water supply for those areas served by a regional water  
234 supply authority and its member governments within the  
235 boundaries of the Southwest Florida Water Management District  
236 shall be developed jointly by the authority and the district.

237 Section 46. Subsections (2) and (3) of section 373.236,  
238 Florida Statutes, are renumbered as subsections (3) and (4),  
239 respectively, and a new subsection (2) is added to said section,  
240 to read:

241 373.236 Duration of permits; compliance reports.--

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

248 Section 47. Section 373.2234, Florida Statutes, is amended  
249 to read:

250 373.2234 Preferred water supply sources.--The governing  
251 board of a water management district is authorized to adopt  
252 rules that identify preferred water supply sources for  
253 consumptive uses for which there is sufficient data to establish  
254 that a preferred source will provide a substantial new water

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255 supply to meet the existing and projected reasonable-beneficial  
256 uses of a water supply planning region identified pursuant to s.  
257 373.0361(1), while sustaining existing water resources and  
258 natural systems. At a minimum, such rules must contain a  
259 description of the preferred water supply source and an  
260 assessment of the water the preferred source is projected to  
261 produce. If an applicant proposes to use a preferred water  
262 supply source, that applicant's proposed water use is subject to  
263 s. 373.223(1), except that the proposed use of a preferred water  
264 supply source must be considered by a water management district  
265 when determining whether a permit applicant's proposed use of  
266 water is consistent with the public interest pursuant to s.  
267 373.223(1)(c). A consumptive use permit issued for the use of a  
268 preferred water supply source must be granted, when requested by  
269 the applicant, for at least a 20-year period and may be subject  
270 to the compliance reporting provisions of s. 373.236(4)~~(3)~~.  
271 Nothing in this section shall be construed to exempt the use of  
272 preferred water supply sources from the provisions of ss.  
273 373.016(4) and 373.223(2) and (3), or be construed to provide  
274 that permits issued for the use of a nonpreferred water supply  
275 source must be issued for a duration of less than 20 years or  
276 that the use of a nonpreferred water supply source is not  
277 consistent with the public interest. Additionally, nothing in  
278 this section shall be interpreted to require the use of a  
279 preferred water supply source or to restrict or prohibit the use  
280 of a nonpreferred water supply source. Rules adopted by the  
281 governing board of a water management district to implement this

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282 section shall specify that the use of a preferred water supply  
283 source is not required and that the use of a nonpreferred water  
284 supply source is not restricted or prohibited.

285 Section 48. Section 373.407, Florida Statutes, is created  
286 to read:

287 373.407 Memorandum of agreement for an agricultural-  
288 related exemption.--No later than July 1, 2006, the Department  
289 of Agriculture and Consumer Services and each water management  
290 district shall enter into a memorandum of agreement under which  
291 the Department of Agriculture and Consumer Services shall assist  
292 in a determination by a water management district as to whether  
293 an existing or proposed activity qualifies for the exemption in  
294 s. 373.406(2). The memorandum of agreement shall provide a  
295 process by which, upon the request of a water management  
296 district or an affected person engaged in the occupation of  
297 agriculture, silviculture, floriculture, or horticulture, the  
298 water management district and the Department of Agriculture and  
299 Consumer Services shall conduct a review as to whether an  
300 existing or proposed activity qualifies for an agricultural-  
301 related exemption in s. 373.406(2). The memorandum of agreement  
302 shall provide processes and procedures for the conduct of the  
303 review, including the issuance of a recommendation by the  
304 Department of Agriculture and Consumer Services.

305  
306  
307 ===== T I T L E A M E N D M E N T =====

308 Remove line 4469 and insert:

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309 severability; amending s. 70.001, F.S.; reducing the period  
310 within which an owner of agricultural land must provide notice  
311 of a claim prior to filing an action against a governmental  
312 entity regarding private property rights; amending s. 163.3162,  
313 F.S.; providing for application for an amendment to the local  
314 comprehensive plan by the owner of land that meets certain  
315 provisions of the definition of an agricultural enclave;  
316 providing requirements relating to such applications; exempting  
317 certain amendments from specified rules of the Department of  
318 Community Affairs under certain circumstances; amending s.  
319 163.3164, F.S.; defining the term "agricultural enclave" for  
320 purposes of the Local Government Comprehensive Planning and Land  
321 Development Regulation Act; creating s. 259.047, F.S.; providing  
322 requirements relating to the purchase of land on which an  
323 agricultural lease exists; amending s. 373.0361, F.S.; providing  
324 for recognition that alternative water-source options for  
325 agricultural self-suppliers are limited; amending s. 373.236,  
326 F.S.; requiring water management districts to inform landowners  
327 of the option to obtain certain consumptive use permits;  
328 amending s. 373.2234, F.S.; conforming a cross reference;  
329 creating s. 373.407, F.S.; providing for memoranda of agreement  
330 regarding qualification for agricultural-related exemptions;  
331 providing effective dates.

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