

1 A bill to be entitled
 2 An act relating to agricultural economic development;
 3 creating s. 70.005, F.S.; providing a cause of action for
 4 landowners aggrieved by certain changes to agricultural
 5 land use; amending s. 163.2514, F.S.; defining the term
 6 "agricultural enclave" for purposes of growth policy;
 7 amending s. 163.2517, F.S.; authorizing the owner of land
 8 defined as an agricultural enclave to apply for an
 9 amendment to the local government comprehensive plan;
 10 providing requirements relating to application for a
 11 comprehensive plan amendment; amending s. 163.3187, F.S.;
 12 providing that a large scale comprehensive plan amendment
 13 adopted as a result of informal mediation may be approved
 14 without regard to the statutory frequency limits; creating
 15 s. 259.047, F.S.; providing requirements relating to
 16 purchase of land on which an agricultural lease exists;
 17 amending s. 373.0361, F.S.; providing for recognition that
 18 alternative water source options for agricultural self-
 19 suppliers are limited; amending s. 373.2234, F.S.;
 20 correcting a cross reference; amending s. 373.236, F.S.;
 21 requiring water management districts to inform landowners
 22 of the option to obtain certain consumptive use permits;
 23 creating s. 373.407, F.S.; providing for memoranda of
 24 agreement regarding qualification for agricultural-related
 25 exemptions; providing an effective date.

26
 27 WHEREAS, agricultural production is a major contributor to
 28 the economy of the state, and

29 WHEREAS, agricultural lands constitute unique and
 30 irreplaceable resources of statewide importance, and

31 WHEREAS, the continuation of agricultural activities
 32 preserves the landscape and environmental resources of the
 33 state, contributes to the increase of tourism, and furthers the
 34 economic self-sufficiency of the people of the state, and

35 WHEREAS, the development, improvement, and encouragement
 36 of the agricultural industry will result in a general benefit
 37 to the health, safety, and welfare of the people of the state,
 38 NOW, THEREFORE,

39

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

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42 Section 1. Section 70.005, Florida Statutes, is created to
 43 read:

44 70.005 Cause of action.--A landowner aggrieved by the
 45 changing of an existing agricultural land use classification or
 46 agricultural zoning or the lowering of the current residential
 47 density designation by a county which creates an inordinate
 48 burden on property classified as agricultural land pursuant to
 49 s. 193.461 shall have an immediate cause of action in accordance
 50 with the procedures provided in s. 70.001, except that the 180-
 51 day notice period shall be reduced to a 90-day notice period.

52 Section 2. Subsections (1) and (2) of section 163.2514,
 53 Florida Statutes, are renumbered as subsections (2) and (3),
 54 respectively, and a new subsection (1) is added to said section
 55 to read:

56 163.2514 Growth Policy Act; definitions.--As used in ss.
 57 163.2511-163.2526:

58 (1) "Agricultural enclave" means any unincorporated,
 59 undeveloped parcel of 7,500 acres or less owned by a single
 60 person or entity, which satisfies all of the following criteria:

61 (a) The parcel has been in continuous use for bona fide
 62 agricultural purposes, as defined by s. 193.461, for a period of
 63 5 years prior to the date of any comprehensive plan amendment
 64 application.

65 (b) The parcel is surrounded on at least 75 percent of its
 66 perimeter by existing industrial, commercial, or residential
 67 development or property which may be developed for industrial,
 68 commercial, or residential purposes without further amendment of
 69 a local government comprehensive plan.

70 (c) Public services, including water, wastewater,
 71 transportation, schools, and recreational facilities, are
 72 available or are scheduled to be provided as part of an adopted
 73 5-year schedule of capital improvements by the local government
 74 or by an alternative local government public infrastructure
 75 provider.

76 Section 3. Subsection (7) is added to section 163.2517,
 77 Florida Statutes, to read:

78 163.2517 Designation of urban infill and redevelopment
 79 area; agricultural enclave--

80 (7) In order to preserve commercial agricultural activity,
 81 encourage mixed-use infill development, prevent urban sprawl,
 82 and provide more efficient delivery of municipal services and
 83 facilities, the owner of land defined as an agricultural enclave

84 pursuant to s. 163.2514(1) may apply for an amendment to the
 85 local government comprehensive plan pursuant to s. 163.3187.
 86 Such amendment may include land uses and intensities of use
 87 consistent with the uses and intensities of use of surrounding
 88 industrial, commercial, or residential areas. Any comprehensive
 89 plan amendment application shall include appropriate "new
 90 urbanism" concepts such as clustering, mixed-use development,
 91 the creation of rural village and city centers, and the transfer
 92 of development rights in order to discourage urban sprawl while
 93 protecting landowner rights. If such amendment is otherwise
 94 consistent with applicable provisions of ss. 163.3177, 163.3178,
 95 163.3180, 163.3191, and 163.3245, the state comprehensive plan,
 96 the appropriate regional policy plan, and chapter 9J-5, Florida
 97 Administrative Code, the amendment shall be deemed to prevent
 98 urban sprawl and be in compliance as defined in s. 163.3184. If
 99 two or more persons or entities own contiguous agricultural
 100 lands which, when consolidated after the effective date of this
 101 act, meet the definition of an agricultural enclave, such
 102 persons or entities shall not be entitled to apply for a
 103 comprehensive plan amendment pursuant to this subsection for a
 104 period of 5 years following consolidation.

105 Section 4. Paragraph (d) of subsection (1) of section
 106 163.3187, Florida Statutes, is amended to read:

107 163.3187 Amendment of adopted comprehensive plan.--

108 (1) Amendments to comprehensive plans adopted pursuant to
 109 this part may be made not more than two times during any
 110 calendar year, except:

111 (d) Any comprehensive plan amendment required by a
 112 compliance agreement under ~~pursuant to~~ s. 163.3184(16) or any
 113 large scale comprehensive plan amendment adopted as a result of
 114 informal mediation in accordance with s. 163.3181(4) may be
 115 approved without regard to statutory limits on the frequency of
 116 adoption of amendments to the comprehensive plan.

117 Section 5. Section 259.047, Florida Statutes, is created
 118 to read:

119 259.047 Acquisition of land on which an agricultural lease
 120 exists.--

121 (1) When land with an existing agricultural lease is
 122 acquired in fee simple pursuant to this chapter or chapter 375,
 123 the existing agricultural lease may continue in force for the
 124 actual time remaining on the lease agreement. Any entity
 125 managing lands acquired under this section must consider
 126 existing agricultural leases in the development of a land
 127 management plan required under the provisions of s. 253.034.

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

132 Section 6. Paragraph (a) of subsection (2) of section
 133 373.0361, Florida Statutes, is amended to read:

134 373.0361 Regional water supply planning.--

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

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

139 1. A quantification of the water supply needs for all
140 existing and reasonably projected future uses within the
141 planning horizon. The level-of-certainty planning goal
142 associated with identifying the water supply needs of existing
143 and future reasonable-beneficial uses shall be based upon
144 meeting those needs for a 1-in-10-year drought event. Population
145 projections used for determining public water supply needs must
146 be based upon the best available data. In determining the best
147 available data, the district shall consider the University of
148 Florida's Bureau of Economic and Business Research (BEBR) medium
149 population projections and any population projection data and
150 analysis submitted by a local government pursuant to the public
151 workshop described in subsection (1) if the data and analysis
152 support the local government's comprehensive plan. Any
153 adjustment of or deviation from the BEBR projections must be
154 fully described, and the original BEBR data must be presented
155 along with the adjusted data.

156 2. A list of water source options, including traditional
157 and alternative source options, from which local government,
158 government-owned and privately owned utilities, self-suppliers,
159 and others may choose, for water supply development, the total
160 capacity of which will, in conjunction with water conservation
161 and other demand management measures, exceed the needs
162 identified in subparagraph 1. The list of water source options
163 for water supply development must contain provisions that
164 recognize that alternative water source options for agricultural
165 self-suppliers are limited.

166 3. For each option listed in subparagraph 2., the
 167 estimated amount of water available for use and the estimated
 168 costs of and potential sources of funding for water supply
 169 development.

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

172
 173 The water supply development component of a regional water
 174 supply plan which deals with or affects public utilities and
 175 public water supply for those areas served by a regional water
 176 supply authority and its member governments within the
 177 boundaries of the Southwest Florida Water Management District
 178 shall be developed jointly by the authority and the district.

179 Section 7. Section 373.2234, Florida Statutes, is amended
 180 to read:

181 373.2234 Preferred water supply sources.--The governing
 182 board of a water management district is authorized to adopt
 183 rules that identify preferred water supply sources for
 184 consumptive uses for which there is sufficient data to establish
 185 that a preferred source will provide a substantial new water
 186 supply to meet the existing and projected reasonable-beneficial
 187 uses of a water supply planning region identified pursuant to s.
 188 373.0361(1), while sustaining existing water resources and
 189 natural systems. At a minimum, such rules must contain a
 190 description of the preferred water supply source and an
 191 assessment of the water the preferred source is projected to
 192 produce. If an applicant proposes to use a preferred water
 193 supply source, that applicant's proposed water use is subject to

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194 s. 373.223(1), except that the proposed use of a preferred water
195 supply source must be considered by a water management district
196 when determining whether a permit applicant's proposed use of
197 water is consistent with the public interest pursuant to s.
198 373.223(1)(c). A consumptive use permit issued for the use of a
199 preferred water supply source must be granted, when requested by
200 the applicant, for at least a 20-year period and may be subject
201 to the compliance reporting provisions of s. 373.236(4)~~(3)~~.
202 Nothing in this section shall be construed to exempt the use of
203 preferred water supply sources from the provisions of ss.
204 373.016(4) and 373.223(2) and (3), or be construed to provide
205 that permits issued for the use of a nonpreferred water supply
206 source must be issued for a duration of less than 20 years or
207 that the use of a nonpreferred water supply source is not
208 consistent with the public interest. Additionally, nothing in
209 this section shall be interpreted to require the use of a
210 preferred water supply source or to restrict or prohibit the use
211 of a nonpreferred water supply source. Rules adopted by the
212 governing board of a water management district to implement this
213 section shall specify that the use of a preferred water supply
214 source is not required and that the use of a nonpreferred water
215 supply source is not restricted or prohibited.

216 Section 8. Subsections (2) and (3) of section 373.236,
217 Florida Statutes, are renumbered as subsections (3) and (4),
218 respectively, and a new subsection (2) is added to said section
219 to read:

220 373.236 Duration of permits; compliance reports.--

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

227 Section 9. Section 373.407, Florida Statutes, is created
 228 to read:

229 373.407 Memorandum of agreement for an agricultural-
 230 related exemption.--No later than July 1, 2006, the Department
 231 of Agriculture and Consumer Services and each water management
 232 district shall enter into a memorandum of agreement under which
 233 the Department of Agriculture and Consumer Services shall assist
 234 in a determination by a water management district as to whether
 235 an existing or proposed activity qualifies for the exemption set
 236 forth in s. 373.406(2). The memorandum of agreement shall
 237 provide a process by which, upon the request of a water
 238 management district, the Department of Agriculture and Consumer
 239 Services shall conduct a nonbinding review as to whether an
 240 existing or proposed activity qualifies for an agricultural-
 241 related exemption set forth in s. 373.406(2). The memorandum of
 242 agreement shall provide processes and procedures by which the
 243 Department of Agriculture and Consumer Services shall undertake
 244 this review effectively and efficiently and issue a
 245 recommendation.

246 Section 10. This act shall take effect upon becoming a
 247 law.