

By the Committee on Community Affairs; and Senators Argenziano and Haridopolos

578-1774-05

1 A bill to be entitled

2 An act relating to agricultural economic

3 development; amending s. 70.001, F.S.;

4 providing a cause of action for landowners

5 aggrieved by certain changes to agricultural

6 land use; amending s. 163.2514, F.S.; defining

7 the terms "agricultural enclave" and "family

8 farm agricultural enclave" for purposes of

9 growth policy; amending s. 163.2517, F.S.;

10 authorizing the owner of land defined as an

11 agricultural enclave or a family farm

12 agricultural enclave to apply for an amendment

13 to the local government comprehensive plan;

14 providing requirements relating to application

15 for a comprehensive plan amendment; providing

16 for the granting of amendment upon the failure

17 to act in a timely fashion; amending s.

18 163.3177, F.S.; requiring land use plans to

19 establish appropriate uses of lands in

20 agricultural enclaves; amending acreage limits

21 for rural land stewardship areas; requiring the

22 department to obtain written agreements from

23 landowners; amending s. 163.3187, F.S.;

24 providing that an amendment to an agricultural

25 enclave comprehensive plan or an amendment to a

26 large scale comprehensive plan adopted as a

27 result of informal mediation may be approved

28 without regard to statutory frequency limits;

29 creating s. 259.047, F.S.; providing

30 requirements relating to the purchase of land

31 on which an agricultural lease exists; amending

1 s. 373.0361, F.S.; providing for recognition
2 that alternative water-source options for
3 agricultural self-suppliers are limited;
4 amending s. 373.2234, F.S.; conforming a
5 cross-reference; amending s. 373.236, F.S.;
6 requiring water management districts to inform
7 landowners of the option to obtain certain
8 consumptive use permits; creating s. 373.407,
9 F.S.; providing for memoranda of agreement
10 regarding qualification for
11 agricultural-related exemptions; providing an
12 effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Subsections (4) and (5) of section 70.001,
17 Florida Statutes, are amended to read:

18 70.001 Private property rights protection.--

19 (4)(a) Not less than 180 days prior to filing an
20 action under this section against a governmental entity, a
21 property owner who seeks compensation under this section must
22 present the claim in writing to the head of the governmental
23 entity. The property owner must submit, along with the claim,
24 a bona fide, valid appraisal that supports the claim and
25 demonstrates the loss in fair market value to the real
26 property. If the action of government is the culmination of a
27 process that involves more than one governmental entity, or if
28 a complete resolution of all relevant issues, in the view of
29 the property owner or in the view of a governmental entity to
30 whom a claim is presented, requires the active participation
31 of more than one governmental entity, the property owner shall

1 present the claim as provided in this section to each of the
2 governmental entities.

3 (b) A landowner aggrieved by the changing of an
4 existing agricultural land use classification or agricultural
5 zoning or the lowering of the current density designation
6 which creates an inordinate burden on property classified as
7 agricultural land pursuant to s. 193.461 shall have a cause of
8 action in accordance with the procedures provided in this
9 section, except that the 180-day notice period shall be
10 reduced to a 90-day notice period.

11 ~~(c)(b)~~ The governmental entity shall provide written
12 notice of the claim to all parties to any administrative
13 action that gave rise to the claim, and to owners of real
14 property contiguous to the owner's property at the addresses
15 listed on the most recent county tax rolls. Within 15 days
16 after the claim being presented, the governmental entity shall
17 report the claim in writing to the Department of Legal
18 Affairs, and shall provide the department with the name,
19 address, and telephone number of the employee of the
20 governmental entity from whom additional information may be
21 obtained about the claim during the pendency of the claim and
22 any subsequent judicial action.

23 ~~(d)(e)~~ During the 90-day-notice or the 180-day-notice
24 period, unless extended by agreement of the parties, the
25 governmental entity shall make a written settlement offer to
26 effectuate:

- 27 1. An adjustment of land development or permit
28 standards or other provisions controlling the development or
29 use of land.
- 30 2. Increases or modifications in the density,
31 intensity, or use of areas of development.

- 1 3. The transfer of developmental rights.
- 2 4. Land swaps or exchanges.
- 3 5. Mitigation, including payments in lieu of onsite
- 4 mitigation.
- 5 6. Location on the least sensitive portion of the
- 6 property.
- 7 7. Conditioning the amount of development or use
- 8 permitted.
- 9 8. A requirement that issues be addressed on a more
- 10 comprehensive basis than a single proposed use or development.
- 11 9. Issuance of the development order, a variance,
- 12 special exception, or other extraordinary relief.
- 13 10. Purchase of the real property, or an interest
- 14 therein, by an appropriate governmental entity.
- 15 11. No changes to the action of the governmental
- 16 entity.

17
18 If the property owner accepts the settlement offer, the
19 governmental entity may implement the settlement offer by
20 appropriate development agreement; by issuing a variance,
21 special exception, or other extraordinary relief; or by other
22 appropriate method, subject to paragraph (d).

23 ~~(e)~~(d)1. Whenever a governmental entity enters into a
24 settlement agreement under this section which would have the
25 effect of a modification, variance, or a special exception to
26 the application of a rule, regulation, or ordinance as it
27 would otherwise apply to the subject real property, the relief
28 granted shall protect the public interest served by the
29 regulations at issue and be the appropriate relief necessary
30 to prevent the governmental regulatory effort from
31 inordinately burdening the real property.

1 2. Whenever a governmental entity enters into a
2 settlement agreement under this section which would have the
3 effect of contravening the application of a statute as it
4 would otherwise apply to the subject real property, the
5 governmental entity and the property owner shall jointly file
6 an action in the circuit court where the real property is
7 located for approval of the settlement agreement by the court
8 to ensure that the relief granted protects the public interest
9 served by the statute at issue and is the appropriate relief
10 necessary to prevent the governmental regulatory effort from
11 inordinately burdening the real property.

12 (5)(a) During the 90-day-notice or the 180-day-notice
13 period, unless a settlement offer is accepted by the property
14 owner, each of the governmental entities provided notice
15 pursuant to paragraph (4)(a) shall issue a written ripeness
16 decision identifying the allowable uses to which the subject
17 property may be put. The failure of the governmental entity
18 to issue a written ripeness decision during the 90-day-notice
19 or the 180-day-notice period shall be deemed to ripen the
20 prior action of the governmental entity, and shall operate as
21 a ripeness decision that has been rejected by the property
22 owner. The ripeness decision, as a matter of law, constitutes
23 the last prerequisite to judicial review, and the matter shall
24 be deemed ripe or final for the purposes of the judicial
25 proceeding created by this section, notwithstanding the
26 availability of other administrative remedies.

27 (b) If the property owner rejects the settlement offer
28 and the ripeness decision of the governmental entity or
29 entities, the property owner may file a claim for compensation
30 in the circuit court, a copy of which shall be served
31 contemporaneously on the head of each of the governmental

1 entities that made a settlement offer and a ripeness decision
2 that was rejected by the property owner. Actions under this
3 section shall be brought only in the county where the real
4 property is located.

5 Section 2. Present subsections (1) and (2) of section
6 163.2514, Florida Statutes, are redesignated as subsections
7 (3) and (4), respectively, and new subsections (1) and (2) are
8 added to that section, to read:

9 163.2514 Growth Policy Act; definitions.--As used in
10 ss. 163.2511-163.2526:

11 (1) "Agricultural enclave" means any unincorporated,
12 undeveloped parcel owned by a single person or entity which
13 satisfies all of the following criteria:

14 (a) The size of an enclave does not exceed the acreage
15 of four sections or 2,560 acres. However, when the enclave
16 parcel is in active agricultural production and a damaging
17 pest, disease, or natural disaster is or has been identified
18 within 5 miles of the agricultural property, the size may not
19 exceed eight sections of land or 5,120 acres.

20 (b) The parcel has been in continuous use for bona
21 fide agricultural purposes, as defined by s. 193.461, for 5
22 years prior to the date of any comprehensive plan amendment
23 application.

24 (c) The parcel is surrounded on at least 75 percent of
25 its perimeter by existing industrial, commercial, or
26 residential development or property that the local government
27 has designated as land that is to be developed for industrial,
28 commercial, or residential purposes and only requires building
29 and related permits for that use without further amendment of
30 a local government comprehensive plan.

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1 (d) Public services, including water, wastewater,
2 transportation, schools, and recreation facilities are
3 available or are scheduled to be provided as part of an
4 adopted 5-year schedule of capital improvements by the local
5 government or by an alternative local government, public
6 infrastructure provider.

7 (2) "Family farm agricultural enclave" means an
8 undeveloped parcel of land not exceeding 500 acres which meets
9 the criteria for an agricultural enclave.

10 Section 3. Subsection (7) is added to section
11 163.2517, Florida Statutes, to read:

12 163.2517 Designation of urban infill and redevelopment
13 area.--

14 (7)(a) In order to preserve commercial agricultural
15 activity, encourage mixed-use infill development, prevent
16 urban sprawl, and provide more efficient delivery of municipal
17 services and facilities, the owner of land defined as an
18 agricultural enclave pursuant to s. 163.2514(1) may apply for
19 an amendment to the local government comprehensive plan
20 pursuant to s. 163.3187 and development-of-regional-impact
21 approval, if applicable. Such amendment and
22 development-of-regional-impact approval, if applicable, may
23 include land uses and intensities of use consistent with the
24 uses and intensities of use of surrounding industrial,
25 commercial, or residential areas. Any application for a
26 comprehensive plan amendment and
27 development-of-regional-impact approval, if applicable, shall
28 include appropriate new urbanism concepts such as clustering,
29 mixed-use development, the creation of rural village and city
30 centers, and the transfer of development rights in order to
31 discourage urban sprawl while protecting landowner rights. If

1 such amendment and application for
2 development-of-regional-impact approval is otherwise
3 consistent with applicable provisions of ss. 163.3177,
4 163.3178, 163.3180, 163.3191. and 163.3245, the state
5 comprehensive plan, the appropriate regional policy plan, and
6 chapter 9J-5, Florida Administrative Code, the amendment shall
7 be deemed to prevent urban sprawl and be in compliance as
8 defined in s. 163.3184, and the application for development of
9 regional impact shall be approved.

10 (b) For family farm agricultural enclaves, the owner
11 of land defined as an agricultural enclave pursuant to s.
12 163.2514(2) may apply for an amendment to the local government
13 comprehensive plan pursuant to s. 163.3187. Such amendment may
14 include land uses and intensities of use consistent with the
15 uses and intensities of use of surrounding industrial,
16 commercial, or residential areas. If such amendment is
17 otherwise consistent with applicable provisions of ss.
18 163.3177, 163.3178, 163.3180. 163.3191, and 163.3245, the
19 state comprehensive plan, the appropriate regional policy
20 plan, and chapter 9J-5, Florida Administrative Code, the
21 amendment shall be deemed to prevent urban sprawl and be in
22 compliance as defined in s. 163.3184.

23 (c) If the local government has failed to act within
24 180 days on the comprehensive plan amendment or application
25 for development-of-regional-impact approval, the agricultural
26 enclave as defined in s. 163.2514(1) and (2) shall be granted
27 the comprehensive plan amendment and
28 development-of-regional-impact approval requested.

29 Section 4. Paragraph (a) of subsection (6) and
30 paragraph (d) of subsection (11) of section 163.3177, Florida
31 Statutes, are amended to read:

1 163.3177 Required and optional elements of
2 comprehensive plan; studies and surveys.--

3 (6) In addition to the requirements of subsections
4 (1)-(5), the comprehensive plan shall include the following
5 elements:

6 (a) A future land use plan element designating
7 proposed future general distribution, location, and extent of
8 the uses of land for residential uses, commercial uses,
9 industry, agriculture, recreation, conservation, education,
10 public buildings and grounds, other public facilities, and
11 other categories of the public and private uses of land.

12 Counties are encouraged to designate rural land stewardship
13 areas, pursuant to the provisions of paragraph (11)(d), as
14 overlays on the future land use map. The proposed
15 distribution, location, and extent of the various categories
16 of land use shall be shown on a land use map or map series
17 that shall be supplemented by goals, policies, and measurable
18 objectives.

19 1. Each future land use category must be defined in
20 terms of uses included, and must include standards to be
21 followed in the control and distribution of population
22 densities and building and structure intensities. ~~The proposed~~
23 ~~distribution, location, and extent of the various categories~~
24 ~~of land use shall be shown on a land use map or map series~~
25 ~~which shall be supplemented by goals, policies, and measurable~~
26 ~~objectives.~~

27 2. The future land use plan shall be based upon
28 surveys, studies, and data regarding the area, including the
29 amount of land required to accommodate anticipated growth; the
30 projected population of the area; the character of undeveloped
31 land; the availability of public services; the need for

1 redevelopment, including the renewal of blighted areas and the
2 elimination of nonconforming uses which are inconsistent with
3 the character of the community; the compatibility of uses on
4 lands adjacent to or closely proximate to military
5 installations; and, in rural communities, the need for job
6 creation, capital investment, and economic development that
7 will strengthen and diversify the community's economy.

8 3. The future land use plan may designate areas for
9 future planned development use involving combinations of types
10 of uses for which special regulations may be necessary to
11 ensure development in accord with the principles and standards
12 of the comprehensive plan and this act.

13 4. The future land use plan element shall include
14 criteria to be used to achieve the compatibility of adjacent
15 or closely proximate lands with military installations.

16 5. ~~In addition,~~ For rural communities, the amount of
17 land designated for future planned industrial use shall be
18 based upon surveys and studies that reflect the need for job
19 creation, capital investment, and the necessity to strengthen
20 and diversify the local economies, and shall not be limited
21 solely by the projected population of the rural community.

22 6. The future land use plan shall delineate
23 agricultural enclaves, as defined in s. 163.2514(1) and (2),
24 and establish appropriate uses of land in these enclaves which
25 are consistent with the intensities of use of surrounding
26 industrial, commercial, or residential areas.

27 7. The future land use plan of a county may also
28 designate areas for possible future municipal incorporation.

29 8. The land use maps or map series shall generally
30 identify and depict historic district boundaries and shall
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1 designate historically significant properties meriting
2 protection.

3 9. The future land use element must clearly identify
4 the land use categories in which public schools are an
5 allowable use. When delineating the land use categories in
6 which public schools are an allowable use, a local government
7 shall include in the categories sufficient land proximate to
8 residential development to meet the projected needs for
9 schools in coordination with public school boards and may
10 establish differing criteria for schools of different type or
11 size. Each local government shall include lands contiguous to
12 existing school sites, to the maximum extent possible, within
13 the land use categories in which public schools are an
14 allowable use. All comprehensive plans must comply with the
15 school siting requirements of this paragraph no later than
16 October 1, 1999. The failure by a local government to comply
17 with these school siting requirements by October 1, 1999, will
18 result in the prohibition of the local government's ability to
19 amend the local comprehensive plan, except for plan amendments
20 described in s. 163.3187(1)(b), until the school siting
21 requirements are met. Amendments proposed by a local
22 government for purposes of identifying the land use categories
23 in which public schools are an allowable use or for adopting
24 or amending the school-siting maps pursuant to s. 163.31776(3)
25 are exempt from the limitation on the frequency of plan
26 amendments contained in s. 163.3187. The future land use
27 element shall include criteria that encourage the location of
28 schools proximate to urban residential areas to the extent
29 possible and shall require that the local government seek to
30 collocate public facilities, such as parks, libraries, and
31 community centers, with schools to the extent possible and to

1 encourage the use of elementary schools as focal points for
2 neighborhoods. For schools serving predominantly rural
3 counties, defined as a county with a population of 100,000 or
4 fewer, an agricultural land use category shall be eligible for
5 the location of public school facilities if the local
6 comprehensive plan contains school siting criteria and the
7 location is consistent with such criteria. Local governments
8 required to update or amend their comprehensive plan to
9 include criteria and address compatibility of adjacent or
10 closely proximate lands with existing military installations
11 in their future land use plan element shall transmit the
12 update or amendment to the department by June 30, 2006.

13 (11)

14 (d)1. The department, in cooperation with the
15 Department of Agriculture and Consumer Services, the
16 Department of Environmental Protection, water management
17 districts, and regional planning councils, shall provide
18 assistance to local governments in the implementation of this
19 paragraph and rule 9J-5.006(5)(1), Florida Administrative
20 Code. Implementation of those provisions shall include a
21 process by which the department may authorize local
22 governments and landowners to designate all or portions of
23 lands classified in the future land use element as
24 predominantly agricultural, rural, open, open-rural, or a
25 substantively equivalent land use, as a rural land stewardship
26 area within which planning and economic incentives are applied
27 to encourage the implementation of innovative and flexible
28 planning and development strategies and creative land use
29 planning techniques, including those contained herein and in
30 rule 9J-5.006(5)(1), Florida Administrative Code. Assistance
31 may include, but is not limited to:

1 a. Assistance from the Department of Environmental
2 Protection and water management districts in creating the
3 geographic information systems land cover database and aerial
4 photogrammetry needed to prepare for a rural land stewardship
5 area;

6 b. Support for local government implementation of
7 rural land stewardship concepts by providing information and
8 assistance to local governments regarding land acquisition
9 programs that may be used by the local government or
10 landowners to leverage the protection of greater acreage and
11 maximize the effectiveness of rural land stewardship areas;
12 and

13 c. Expansion of the role of the Department of
14 Community Affairs as a resource agency to facilitate
15 establishment of rural land stewardship areas in smaller rural
16 counties that do not have the staff or planning budgets to
17 create a rural land stewardship area.

18 2. The department shall encourage participation by
19 local governments of different sizes and rural characteristics
20 in establishing and implementing rural land stewardship areas.
21 It is the intent of the Legislature that rural land
22 stewardship areas be used to further the following broad
23 principles of rural sustainability; restoration and
24 maintenance of the economic value of rural land; control of
25 urban sprawl; identification and protection of ecosystems,
26 habitats, and natural resources; promotion of rural economic
27 activity; maintenance of the viability of Florida's
28 agricultural economy; and protection of the character of rural
29 areas of Florida. Rural land stewardship areas may be
30 multicounty in order to encourage coordinated regional
31 stewardship planning.

1 3. A local government, in conjunction with a regional
2 planning council, a stakeholder organization of private land
3 owners, ~~or~~ another local government, or any landowner with
4 2,500 acres or more of contiguous agricultural land as defined
5 in s. 193.461 shall notify the department in writing of its
6 intent to designate a rural land stewardship area. The written
7 notification shall describe the basis for the designation,
8 including the extent to which the rural land stewardship area
9 enhances rural land values, controls urban sprawl, provides
10 necessary open space for agriculture and protection of the
11 natural environment, promotes rural economic activity, and
12 maintains rural character and the economic viability of
13 agriculture.

14 4. A rural land stewardship area shall be not less
15 than 2,500 ~~10,000~~ acres and shall be located outside of
16 municipalities and established urban growth boundaries, and
17 shall be designated by plan amendment. The plan amendment
18 designating a rural land stewardship area shall be subject to
19 review by the Department of Community Affairs pursuant to s.
20 163.3184 and shall provide for the following:

21 a. Criteria for the designation of receiving areas
22 within rural land stewardship areas in which innovative
23 planning and development strategies may be applied. Criteria
24 shall at a minimum provide for the following: adequacy of
25 suitable land to accommodate development so as to avoid
26 conflict with environmentally sensitive areas, resources, and
27 habitats; compatibility between and transition from higher
28 density uses to lower intensity rural uses; the establishment
29 of receiving area service boundaries which provide for a
30 separation between receiving areas and other land uses within
31 the rural land stewardship area through limitations on the

1 extension of services; and connection of receiving areas with
2 the rest of the rural land stewardship area using rural design
3 and rural road corridors.

4 b. Goals, objectives, and policies setting forth the
5 innovative planning and development strategies to be applied
6 within rural land stewardship areas pursuant to the provisions
7 of this section.

8 c. A process for the implementation of innovative
9 planning and development strategies within the rural land
10 stewardship area, including those described in this subsection
11 and rule 9J-5.006(5)(1), Florida Administrative Code, which
12 provide for a functional mix of land uses and which are
13 applied through the adoption by the local government of zoning
14 and land development regulations applicable to the rural land
15 stewardship area.

16 d. A process which encourages visioning pursuant to s.
17 163.3167(11) to ensure that innovative planning and
18 development strategies comply with the provisions of this
19 section.

20 e. The control of sprawl through the use of innovative
21 strategies and creative land use techniques consistent with
22 the provisions of this subsection and rule 9J-5.006(5)(1),
23 Florida Administrative Code.

24 5. In selecting a landowner, the department shall by
25 written agreement:

26 a. Ensure that the landowner has expressed its intent
27 to designate a rural land stewardship area pursuant to this
28 subsection and clarify that the rural land stewardship area is
29 intended.

30
31

1 b. Ensure that the landowner has the financial and
2 administrative capabilities to implement a rural land
3 stewardship area.

4 ~~6.5-~~ A receiving area shall be designated by the
5 adoption of a land development regulation. Prior to the
6 designation of a receiving area, the local government shall
7 provide the Department of Community Affairs a period of 30
8 days in which to review a proposed receiving area for
9 consistency with the rural land stewardship area plan
10 amendment and to provide comments to the local government.

11 ~~7.6-~~ Upon the adoption of a plan amendment creating a
12 rural land stewardship area, the local government shall, by
13 ordinance, assign to the area a certain number of credits, to
14 be known as "transferable rural land use credits," which shall
15 not constitute a right to develop land, nor increase density
16 of land, except as provided by this section. The total amount
17 of transferable rural land use credits assigned to the rural
18 land stewardship area must correspond to the 25-year or
19 greater projected population of the rural land stewardship
20 area. Transferable rural land use credits are subject to the
21 following limitations:

22 a. Transferable rural land use credits may only exist
23 within a rural land stewardship area.

24 b. Transferable rural land use credits may only be
25 used on lands designated as receiving areas and then solely
26 for the purpose of implementing innovative planning and
27 development strategies and creative land use planning
28 techniques adopted by the local government pursuant to this
29 section.

30 c. Transferable rural land use credits assigned to a
31 parcel of land within a rural land stewardship area shall

1 | cease to exist if the parcel of land is removed from the rural
2 | land stewardship area by plan amendment.

3 | d. Neither the creation of the rural land stewardship
4 | area by plan amendment nor the assignment of transferable
5 | rural land use credits by the local government shall operate
6 | to displace the underlying density of land uses assigned to a
7 | parcel of land within the rural land stewardship area;
8 | however, if transferable rural land use credits are
9 | transferred from a parcel for use within a designated
10 | receiving area, the underlying density assigned to the parcel
11 | of land shall cease to exist.

12 | e. The underlying density on each parcel of land
13 | located within a rural land stewardship area shall not be
14 | increased or decreased by the local government, except as a
15 | result of the conveyance or use of transferable rural land use
16 | credits, as long as the parcel remains within the rural land
17 | stewardship area.

18 | f. Transferable rural land use credits shall cease to
19 | exist on a parcel of land where the underlying density
20 | assigned to the parcel of land is utilized.

21 | g. An increase in the density of use on a parcel of
22 | land located within a designated receiving area may occur only
23 | through the assignment or use of transferable rural land use
24 | credits and shall not require a plan amendment.

25 | h. A change in the density of land use on parcels
26 | located within receiving areas shall be specified in a
27 | development order which reflects the total number of
28 | transferable rural land use credits assigned to the parcel of
29 | land and the infrastructure and support services necessary to
30 | provide for a functional mix of land uses corresponding to the
31 | plan of development.

1 i. Land within a rural land stewardship area may be
2 removed from the rural land stewardship area through a plan
3 amendment.

4 j. Transferable rural land use credits may be assigned
5 at different ratios of credits per acre according to the
6 natural resource or other beneficial use characteristics of
7 the land and according to the land use remaining following the
8 transfer of credits, with the highest number of credits per
9 acre assigned to the most environmentally valuable land and a
10 lesser number of credits to be assigned to open space and
11 agricultural land.

12 k. The use or conveyance of transferable rural land
13 use credits must be recorded in the public records of the
14 county in which the property is located as a covenant or
15 restrictive easement running with the land in favor of the
16 county and either the Department of Environmental Protection,
17 Department of Agriculture and Consumer Services, a water
18 management district, or a recognized statewide land trust.

19 ~~8.7.~~ Owners of land within rural land stewardship
20 areas should be provided incentives to enter into rural land
21 stewardship agreements, pursuant to existing law and rules
22 adopted thereto, with state agencies, water management
23 districts, and local governments to achieve mutually agreed
24 upon conservation objectives. Such incentives may include,
25 but not be limited to, the following:

26 a. Opportunity to accumulate transferable mitigation
27 credits.

28 b. Extended permit agreements.

29 c. Opportunities for recreational leases and
30 ecotourism.

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1 d. Payment for specified land management services on
2 publicly owned land, or property under covenant or restricted
3 easement in favor of a public entity.

4 e. Option agreements for sale to public entities or
5 private land conservation entities, in either fee or easement,
6 upon achievement of conservation objectives.

7 ~~9.8.~~ The department shall report to the Legislature on
8 an annual basis on the results of implementation of rural land
9 stewardship areas authorized by the department, including
10 successes and failures in achieving the intent of the
11 Legislature as expressed in this paragraph.

12 Section 5. Paragraph (d) of subsection (1) of section
13 163.3187, Florida Statutes, is amended to read:

14 163.3187 Amendment of adopted comprehensive plan.--

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

18 (d) Any comprehensive plan amendment required by a
19 compliance agreement under ~~pursuant to~~ s. 163.3184(16), an
20 amendment to an agricultural enclave comprehensive plan
21 pursuant to s. 163.2517(7), or any amendment to a large-scale
22 comprehensive plan adopted as a result of informal mediation
23 in accordance with s. 163.3181(4) may be approved without
24 regard to statutory limits on the frequency of adoption of
25 amendments to the comprehensive plan.

26 Section 6. Section 259.047, Florida Statutes, is
27 created to read:

28 259.047 Acquisition of land on which an agricultural
29 lease exists.--

30 (1) When land with an existing agricultural lease is
31 acquired in fee simple pursuant to this chapter or chapter

1 375, the existing agricultural lease may continue in force for
2 the actual time remaining on the lease agreement. Any entity
3 managing lands acquired under this section must consider
4 existing agricultural leases in the development of a land
5 management plan required under s. 253.034.

6 (2) Where consistent with the purposes for which the
7 property was acquired, the state or acquiring entity shall
8 make reasonable efforts to keep lands in agricultural
9 production which are in agricultural production at the time of
10 acquisition.

11 Section 7. Paragraph (a) of subsection (2) of section
12 373.0361, Florida Statutes, is amended to read:

13 373.0361 Regional water supply planning.--

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

17 (a) A water supply development component that
18 includes:

19 1. A quantification of the water supply needs for all
20 existing and reasonably projected future uses within the
21 planning horizon. The level-of-certainty planning goal
22 associated with identifying the water supply needs of existing
23 and future reasonable-beneficial uses shall be based upon
24 meeting those needs for a 1-in-10-year drought event.

25 Population projections used for determining public water
26 supply needs must be based upon the best available data. In
27 determining the best available data, the district shall
28 consider the University of Florida's Bureau of Economic and
29 Business Research (BEBR) medium population projections and any
30 population projection data and analysis submitted by a local
31 government pursuant to the public workshop described in

1 subsection (1) if the data and analysis support the local
2 government's comprehensive plan. Any adjustment of or
3 deviation from the BEBR projections must be fully described,
4 and the original BEBR data must be presented along with the
5 adjusted data.

6 2. A list of water source options, including
7 traditional and alternative source options, from which local
8 government, government-owned and privately owned utilities,
9 self-suppliers, and others may choose, for water supply
10 development, the total capacity of which will, in conjunction
11 with water conservation and other demand management measures,
12 exceed the needs identified in subparagraph 1. The list of
13 water-source options for water supply development must contain
14 provisions that recognize that alternative water-source
15 options for agricultural self-suppliers are limited.

16 3. For each option listed in subparagraph 2., the
17 estimated amount of water available for use and the estimated
18 costs of and potential sources of funding for water supply
19 development.

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

22
23 The water supply development component of a regional water
24 supply plan which deals with or affects public utilities and
25 public water supply for those areas served by a regional water
26 supply authority and its member governments within the
27 boundaries of the Southwest Florida Water Management District
28 shall be developed jointly by the authority and the district.

29 Section 8. Section 373.2234, Florida Statutes, is
30 amended to read:

31

1 373.2234 Preferred water supply sources.--The
2 governing board of a water management district is authorized
3 to adopt rules that identify preferred water supply sources
4 for consumptive uses for which there is sufficient data to
5 establish that a preferred source will provide a substantial
6 new water supply to meet the existing and projected
7 reasonable-beneficial uses of a water supply planning region
8 identified pursuant to s. 373.0361(1), while sustaining
9 existing water resources and natural systems. At a minimum,
10 such rules must contain a description of the preferred water
11 supply source and an assessment of the water the preferred
12 source is projected to produce. If an applicant proposes to
13 use a preferred water supply source, that applicant's proposed
14 water use is subject to s. 373.223(1), except that the
15 proposed use of a preferred water supply source must be
16 considered by a water management district when determining
17 whether a permit applicant's proposed use of water is
18 consistent with the public interest pursuant to s.
19 373.223(1)(c). A consumptive use permit issued for the use of
20 a preferred water supply source must be granted, when
21 requested by the applicant, for at least a 20-year period and
22 may be subject to the compliance reporting provisions of s.
23 373.236(4)~~(3)~~. Nothing in this section shall be construed to
24 exempt the use of preferred water supply sources from the
25 provisions of ss. 373.016(4) and 373.223(2) and (3), or be
26 construed to provide that permits issued for the use of a
27 nonpreferred water supply source must be issued for a duration
28 of less than 20 years or that the use of a nonpreferred water
29 supply source is not consistent with the public interest.
30 Additionally, nothing in this section shall be interpreted to
31 require the use of a preferred water supply source or to

1 restrict or prohibit the use of a nonpreferred water supply
2 source. Rules adopted by the governing board of a water
3 management district to implement this section shall specify
4 that the use of a preferred water supply source is not
5 required and that the use of a nonpreferred water supply
6 source is not restricted or prohibited.

7 Section 9. Subsections (2) and (3) of section 373.236,
8 Florida Statutes, are renumbered as subsections (3) and (4),
9 respectively, and a new subsection (2) is added to that
10 section, to read:

11 373.236 Duration of permits; compliance reports.--

12 (2) The Legislature finds that some agricultural
13 landowners remain unaware of their ability to request a
14 20-year consumptive use permit under subsection (1) for
15 initial permits or for renewals. Therefore, the water
16 management districts shall inform agricultural applicants of
17 this option in the application form.

18 Section 10. Section 373.407, Florida Statutes, is
19 created to read:

20 373.407 Memorandum of agreement for an

21 agricultural-related exemption.--No later than July 1, 2006,
22 the Department of Agriculture and Consumer Services and each
23 water management district shall enter into a memorandum of
24 agreement under which the Department of Agricultural and
25 Consumer Services shall assist in a determination by a water
26 management district as to whether an existing or proposed
27 activity qualifies for the exemption in s. 373.406(2). The
28 memorandum of agreement shall provide a process by which, upon
29 the request of a water management district, the Department of
30 Agriculture and Consumer Services shall conduct a nonbinding
31 review as to whether an existing or proposed activity

1 qualifies for an agricultural-related exemption in s.
2 373.406(2). The memorandum of agreement shall provide
3 processes and procedures by which the Department of
4 Agriculture and Consumer Services shall undertake this review
5 effectively and efficiently and issue a recommendation.

6 Section 11. This act shall take effect upon becoming a
7 law.

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 716

12 The committee substitute (CS) creates a cause of action for
13 agricultural property that suffers an inordinate burden as a
14 subsection within the Bert Harris Act, rather than a separate
15 section of law. It provides that a land owner may be aggrieved
16 by not only the action of a county, but also a municipality.

17 The CS reduces the maximum size for agricultural enclave from
18 7,500 to an acreage limit that does not exceed 2,560 acres,
19 except for enclaves with a pest, disease, or natural disaster
20 within 5 miles which may not exceed 5,120 acres. It defines
21 "family farm agricultural enclave" as undeveloped land not
22 exceeding 500 acres that meets all of the other criteria for
23 an agricultural enclave. Also, it deletes language that
24 imposed a five-year delay before a plan amendment could be
25 filed by two or more contiguous landowners who consolidate
26 their lands to qualify as an agricultural enclave.

27 If the local government fails to act on a plan amendment or
28 DRI application from the owner of an agricultural enclave or
29 family farm enclave within 180 days, the application shall be
30 granted or receive approval. It requires a local government to
31 delineate agricultural enclaves and family farm enclaves and
32 to establish appropriate uses of land in these enclaves that
33 is consistent with the intensities of surrounding commercial
34 and residential uses in its future land use element.

35 The CS reduces the minimum acreage for a rural land
36 stewardship area from 10,000 acres to 2,500 acres. It
37 authorizes landowners, in addition to local governments, to
38 designate a rural land stewardship area. Finally, it exempts
39 plan amendments to relating to an agricultural enclave or
40 family farm agricultural enclave from the twice-per-year
41 limitation on plan amendments.