

By the Committees on Rules; and Community Affairs; and Senator Perry

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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3167, F.S.; specifying requirements for certain
4 comprehensive plans effective after a specified date
5 and for associated land development regulations;
6 prohibiting county charter provisions and
7 comprehensive plan goals, objectives, and policies
8 adopted after a specified date from imposing
9 limitations on lands unless certain conditions are
10 met; providing retroactive applicability; prohibiting
11 county charter provisions and comprehensive plan
12 goals, objectives, and policies from limiting a
13 municipality from deciding land uses, density, and
14 intensity allowed on certain lands; amending s.
15 163.3168, F.S.; requiring the Department of Economic
16 Opportunity to give a preference to certain counties
17 and municipalities when selecting applications for
18 funding for specified technical assistance; amending
19 s. 163.3177, F.S.; requiring local governments to
20 include a property rights element in their
21 comprehensive plans; providing a statement of rights
22 that a local government may use; requiring a local
23 government to adopt a property rights element by a
24 specified date; prohibiting a local government's
25 property rights element from conflicting with the
26 statutorily provided statement of rights; amending s.
27 163.3237, F.S.; providing that certain property owners
28 are not required to consent to development agreement
29 changes under certain circumstances; amending s.

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30 337.401, F.S.; specifying timeframes for processing a
31 permit application for a utility's use of a right-of-
32 way; amending s. 380.06, F.S.; authorizing certain
33 developments of regional impact agreements to be
34 amended under certain circumstances; providing
35 retroactive applicability; providing an effective
36 date.

37
38 Be It Enacted by the Legislature of the State of Florida:

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40 Section 1. Subsection (3) of section 163.3167, Florida
41 Statutes, is amended, and subsection (11) is added to that
42 section, to read:

43 163.3167 Scope of act.—

44 (3) A municipality established after the effective date of
45 this act shall, within 1 year after incorporation, establish a
46 local planning agency, pursuant to s. 163.3174, and prepare and
47 adopt a comprehensive plan of the type and in the manner set out
48 in this act within 3 years after the date of such incorporation.
49 A county comprehensive plan is controlling until the
50 municipality adopts a comprehensive plan in accordance with this
51 act. A comprehensive plan effective ~~adopted~~ after January 1,
52 2019, and all land development regulations adopted to implement
53 the comprehensive plan must incorporate each development order
54 existing before the comprehensive plan's effective date, may not
55 impair the completion of a development in accordance with such
56 existing development order, and must vest the density and
57 intensity approved by such development order existing on the
58 effective date of the comprehensive plan without limitation or

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59 modification.

60 (11) A county charter provision or comprehensive plan goal,
61 objective, or policy adopted after January 1, 2020, may not be
62 imposed as a limitation on lands located within a municipality
63 unless the municipality, through a referendum or locally adopted
64 ordinance, adopts and imposes the provision, goal, objective, or
65 policy on the lands located within the municipal jurisdiction. A
66 county charter provision or comprehensive plan goal, objective,
67 or policy may not limit a municipality from deciding the land
68 uses, density, and intensity allowed on lands annexed into a
69 municipality as long as the municipality is in compliance with
70 subsection (3).

71 Section 2. Present subsection (4) of section 163.3168,
72 Florida Statutes, is redesignated as subsection (5), and a new
73 subsection (4) is added to that section, to read:

74 163.3168 Planning innovations and technical assistance.—

75 (4) When selecting applications for funding for technical
76 assistance, the state land planning agency shall give a
77 preference to a county that has a population of 200,000 or less,
78 and to a municipality located within such a county, for
79 assistance in determining whether the area in and around a
80 proposed multiuse corridor interchange as described in s.
81 338.2278 contains appropriate land uses and natural resource
82 protections and for aid in developing or amending a local
83 government's comprehensive plan to provide for such uses,
84 protections, and intended benefits as provided in s. 338.2278.

85 Section 3. Paragraph (i) is added to subsection (6) of
86 section 163.3177, Florida Statutes, to read:

87 163.3177 Required and optional elements of comprehensive

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88 plan; studies and surveys.—

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

91 (i)1. In accordance with the legislative intent expressed
92 in ss. 163.3161(10) and 187.101(3) that governmental entities
93 respect judicially acknowledged and constitutionally protected
94 private property rights, each local government shall include in
95 its comprehensive plan a property rights element to ensure that
96 private property rights are considered in local decisionmaking.
97 A local government may adopt its own property rights element or
98 use the following statement of rights:

99

100 The following rights shall be considered in local
101 decisionmaking:

102

103 1. The right of a property owner to physically possess
104 and control his or her interests in the property,
105 including easements, leases, or mineral rights.

106

107 2. The right of a property owner to use, maintain,
108 develop, and improve his or her property for personal
109 use or the use of any other person, subject to state
110 law and local ordinances.

111

112 3. The right of the property owner to privacy and to
113 exclude others from the property to protect the
114 owner's possessions and property.

115

116 4. The right of a property owner to dispose of his or

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117 her property through sale or gift.

118
119 2. Each local government must adopt a property rights
120 element in its comprehensive plan by the earlier of its next
121 proposed plan amendment or July 1, 2023. If a local government
122 adopts its own property rights element, the element may not
123 conflict with the statement of rights provided in subparagraph
124 1.

125 Section 4. Section 163.3237, Florida Statutes, is amended
126 to read:

127 163.3237 Amendment or cancellation of a development
128 agreement.—A development agreement may be amended or canceled by
129 mutual consent of the parties to the agreement or by their
130 successors in interest. A party or its designated successor in
131 interest to a development agreement and a local government may
132 amend or cancel a development agreement without securing the
133 consent of other parcel owners whose property was originally
134 subject to the development agreement, unless the amendment or
135 cancellation directly modifies the allowable uses or
136 entitlements of such owners' property.

137 Section 5. Subsection (2) of section 337.401, Florida
138 Statutes, is amended to read:

139 337.401 Use of right-of-way for utilities subject to
140 regulation; permit; fees.—

141 (2) The authority may grant to any person who is a resident
142 of this state, or to any corporation which is organized under
143 the laws of this state or licensed to do business within this
144 state, the use of a right-of-way for the utility in accordance
145 with such rules or regulations as the authority may adopt. No

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146 utility shall be installed, located, or relocated unless
147 authorized by a written permit issued by the authority. However,
148 for public roads or publicly owned rail corridors under the
149 jurisdiction of the department, a utility relocation schedule
150 and relocation agreement may be executed in lieu of a written
151 permit. The permit shall require the permit holder to be
152 responsible for any damage resulting from the issuance of such
153 permit. The authority may initiate injunctive proceedings as
154 provided in s. 120.69 to enforce provisions of this subsection
155 or any rule or order issued or entered into pursuant thereto. A
156 permit application required by an authority under this
157 subsection by a county or municipality having jurisdiction and
158 control of the right-of-way of any public road must be processed
159 and acted upon in accordance with the timeframes provided in
160 subparagraphs (7) (d) 7., 8., and 9.

161 Section 6. Paragraph (d) of subsection (4) of section
162 380.06, Florida Statutes, is amended to read:

163 380.06 Developments of regional impact.—

164 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

165 (d) Any agreement entered into by the state land planning
166 agency, the developer, and the local government with respect to
167 an approved development of regional impact previously classified
168 as essentially built out, or any other official determination
169 that an approved development of regional impact is essentially
170 built out, remains valid unless it expired on or before April 6,
171 2018, and may be amended pursuant to the processes adopted by
172 the local government for amending development orders. Any such
173 agreement or amendment may authorize the developer to exchange
174 approved land uses, subject to demonstrating that the exchange

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175 will not increase impacts to public facilities. This paragraph
176 applies to all such agreements and amendments effective on or
177 after April 6, 2018.

178 Section 7. This act shall take effect July 1, 2020.