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1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3167, F.S.; prohibiting counties from adopting,
4 after a specified date, a comprehensive plan, a land
5 development regulation, or another form of restriction
6 unless certain conditions are met; prohibiting
7 counties from limiting a municipality from deciding
8 land uses, density, and intensity allowed on certain
9 lands; providing retroactive applicability; amending
10 s. 163.3168, F.S.; requiring the Department of
11 Economic Opportunity to give a preference to certain
12 counties and municipalities when selecting
13 applications for funding for specified technical
14 assistance; amending s. 163.3177, F.S.; requiring
15 local governments to include a property rights element
16 in their comprehensive plans; providing a statement of
17 rights that a local government may use; requiring a
18 local government to adopt a property rights element by
19 a specified date; prohibiting a local government's
20 property rights element from conflicting with the
21 statutorily provided statement of rights; amending s.
22 163.3237, F.S.; providing that certain property owners
23 are not required to consent to development agreement
24 changes under certain circumstances; amending s.
25 337.25, F.S.; requiring the Department of
26 Transportation to afford a right of first refusal to
27 certain individuals under specified circumstances;
28 providing requirements and procedures for the right of
29 first refusal; amending s. 337.401, F.S.; specifying

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

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsection (3) of section 163.3167, Florida
40 Statutes, is amended, and subsection (11) is added to that
41 section, to read:

42 163.3167 Scope of act.—

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

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59 (11) A county may not adopt, after January 1, 2020, any
60 comprehensive plan, land development regulation, or other form
61 of restriction that serves as a limitation on a municipality
62 from establishing land use and zoning on lands located within a
63 municipality unless the municipality, through its own
64 ordinances, adopts and imposes the provision, goal, objective,
65 or policy on lands located within the municipal jurisdiction. A
66 county may not limit a municipality from deciding the land uses,
67 density, and intensity allowed on lands annexed into a
68 municipality as long as the municipality is in compliance with
69 subsection (3). This subsection does not apply to a charter
70 county with a population in excess of 1 million as of January 1,
71 2020, which has in place as of that date charter provisions
72 governing land use or development, which provisions apply to all
73 jurisdictions within the county.

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

77 163.3168 Planning innovations and technical assistance.—

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

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

90 163.3177 Required and optional elements of comprehensive
91 plan; studies and surveys.—

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

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

102
103 The following rights shall be considered in local
104 decisionmaking:

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

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

114
115 3. The right of the property owner to privacy and to
116 exclude others from the property to protect the

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117 owner's possessions and property.

118
119 4. The right of a property owner to dispose of his or
120 her property through sale or gift.

121
122 2. Each local government must adopt a property rights
123 element in its comprehensive plan by the earlier of its next
124 proposed plan amendment or July 1, 2023. If a local government
125 adopts its own property rights element, the element may not
126 conflict with the statement of rights provided in subparagraph
127 1.

128 Section 4. Section 163.3237, Florida Statutes, is amended
129 to read:

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

140 Section 5. Subsection (4) of section 337.25, Florida
141 Statutes, is amended to read:

142 337.25 Acquisition, lease, and disposal of real and
143 personal property.—

144 (4) The department may convey, in the name of the state,
145 any land, building, or other property, real or personal, which

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146 was acquired under subsection (1) and which the department has
147 determined is not needed for the construction, operation, and
148 maintenance of a transportation facility. When such a
149 determination has been made, property may be disposed of through
150 negotiations, sealed competitive bids, auctions, or any other
151 means the department deems to be in its best interest, with due
152 advertisement for property valued by the department at greater
153 than \$10,000. A sale may not occur at a price less than the
154 department's current estimate of value, except as provided in
155 paragraphs (a)-(d). The department may afford a right of first
156 refusal to the local government or other political subdivision
157 in the jurisdiction in which the parcel is situated, except in a
158 conveyance transacted under paragraph (a), paragraph (c), or
159 paragraph (e). Notwithstanding any provision of this section to
160 the contrary, before any conveyance under this subsection may be
161 made, except a conveyance under paragraph (a) or paragraph (c),
162 the department shall first afford a right of first refusal to
163 the previous property owner for the department's current
164 estimate of value of the property. The right of first refusal
165 must be made in writing and sent to the previous owner via
166 certified mail or hand delivery, effective upon receipt. The
167 right of first refusal must provide the previous owner with a
168 minimum of 30 days to exercise the right in writing and must be
169 sent to the originator of the offer by certified mail or hand
170 delivery, effective upon dispatch. If the previous owner
171 exercises his or her right of first refusal, the previous owner
172 has a minimum of 90 days to close on the property.

173 (a) If the property has been donated to the state for
174 transportation purposes and a transportation facility has not

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175 been constructed for at least 5 years, plans have not been
176 prepared for the construction of such facility, and the property
177 is not located in a transportation corridor, the governmental
178 entity may authorize reconveyance of the donated property for no
179 consideration to the original donor or the donor's heirs,
180 successors, assigns, or representatives.

181 (b) If the property is to be used for a public purpose, the
182 property may be conveyed without consideration to a governmental
183 entity.

184 (c) If the property was originally acquired specifically to
185 provide replacement housing for persons displaced by
186 transportation projects, the department may negotiate for the
187 sale of such property as replacement housing. As compensation,
188 the state shall receive at least its investment in such property
189 or the department's current estimate of value, whichever is
190 lower. It is expressly intended that this benefit be extended
191 only to persons actually displaced by the project. Dispositions
192 to any other person must be for at least the department's
193 current estimate of value.

194 (d) If the department determines that the property requires
195 significant costs to be incurred or that continued ownership of
196 the property exposes the department to significant liability
197 risks, the department may use the projected maintenance costs
198 over the next 10 years to offset the property's value in
199 establishing a value for disposal of the property, even if that
200 value is zero.

201 (e) If, at the discretion of the department, a sale to a
202 person other than an abutting property owner would be
203 inequitable, the property may be sold to the abutting owner for

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204 the department's current estimate of value.

205 Section 6. Subsection (2) of section 337.401, Florida
206 Statutes, is amended to read:

207 337.401 Use of right-of-way for utilities subject to
208 regulation; permit; fees.—

209 (2) The authority may grant to any person who is a resident
210 of this state, or to any corporation which is organized under
211 the laws of this state or licensed to do business within this
212 state, the use of a right-of-way for the utility in accordance
213 with such rules or regulations as the authority may adopt. No
214 utility shall be installed, located, or relocated unless
215 authorized by a written permit issued by the authority. However,
216 for public roads or publicly owned rail corridors under the
217 jurisdiction of the department, a utility relocation schedule
218 and relocation agreement may be executed in lieu of a written
219 permit. The permit shall require the permitholder to be
220 responsible for any damage resulting from the issuance of such
221 permit. The authority may initiate injunctive proceedings as
222 provided in s. 120.69 to enforce provisions of this subsection
223 or any rule or order issued or entered into pursuant thereto. A
224 permit application required by an authority under this
225 subsection by a county or municipality having jurisdiction and
226 control of the right-of-way of any public road must be processed
227 and acted upon in accordance with the timeframes provided in
228 subparagraphs (7) (d) 7., 8., and 9.

229 Section 7. Paragraph (d) of subsection (4) of section
230 380.06, Florida Statutes, is amended to read:

231 380.06 Developments of regional impact.—

232 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

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233 (d) Any agreement entered into by the state land planning
234 agency, the developer, and the local government with respect to
235 an approved development of regional impact previously classified
236 as essentially built out, or any other official determination
237 that an approved development of regional impact is essentially
238 built out, remains valid unless it expired on or before April 6,
239 2018, and may be amended pursuant to the processes adopted by
240 the local government for amending development orders. Any such
241 agreement or amendment may authorize the developer to exchange
242 approved land uses, subject to demonstrating that the exchange
243 will not increase impacts to public facilities. This paragraph
244 applies to all such agreements and amendments effective on or
245 after April 6, 2018.

246 Section 8. This act shall take effect July 1, 2020.