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1
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. 171.042, F.S.; prohibiting a municipality from
11 annexing specified areas under certain circumstances;
12 amending s. 163.3168, F.S.; requiring the Department
13 of Economic Opportunity to give a preference to
14 certain counties and municipalities when selecting
15 applications for funding for specified technical
16 assistance; amending s. 163.3177, F.S.; requiring
17 local governments to include a property rights element
18 in their comprehensive plans; providing a statement of
19 rights that a local government may use; requiring a
20 local government to adopt a property rights element by
21 a specified date; prohibiting a local government's
22 property rights element from conflicting with the
23 statutorily provided statement of rights; amending s.
24 163.3237, F.S.; providing that certain property owners
25 are not required to consent to development agreement
26 changes under certain circumstances; amending s.
27 337.25, F.S.; requiring the Department of
28 Transportation to afford a right of first refusal to
29 certain individuals under specified circumstances;

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30 providing requirements and procedures for the right of
31 first refusal; amending s. 337.401, F.S.; specifying
32 timeframes for processing a permit application for a
33 utility's use of a right-of-way; providing a
34 declaration of important state interest; amending s.
35 380.06, F.S.; authorizing certain developments of
36 regional impact agreements to be amended under certain
37 circumstances; providing retroactive applicability;
38 providing an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

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

45 163.3167 Scope of act.—

46 (3) A municipality established after the effective date of
47 this act shall, within 1 year after incorporation, establish a
48 local planning agency, pursuant to s. 163.3174, and prepare and
49 adopt a comprehensive plan of the type and in the manner set out
50 in this act within 3 years after the date of such incorporation.
51 A county comprehensive plan is controlling until the
52 municipality adopts a comprehensive plan in accordance with this
53 act. A comprehensive plan effective ~~adopted~~ after January 1,
54 2019, and all land development regulations adopted to implement
55 the comprehensive plan must incorporate each development order
56 existing before the comprehensive plan's effective date, may not
57 impair the completion of a development in accordance with such
58 existing development order, and must vest the density and

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59 intensity approved by such development order existing on the
60 effective date of the comprehensive plan without limitation or
61 modification.

62 (11) A county may not adopt, after January 1, 2020, any
63 comprehensive plan, land development regulation, or other form
64 of restriction that serves as a limitation on a municipality
65 from establishing land use and zoning on lands located within a
66 municipality unless the municipality, through its own
67 ordinances, adopts and imposes the provision, goal, objective,
68 or policy on lands located within the municipal jurisdiction. A
69 county may not limit a municipality from deciding the land uses,
70 density, and intensity allowed on lands annexed into a
71 municipality as long as the municipality is in compliance with
72 subsection (3). This subsection does not apply to a charter
73 county with a population in excess of 750,000 as of January 1,
74 2020, which has in place as of that date charter provisions
75 governing land use or development, which provisions apply to all
76 jurisdictions within the county.

77 Section 2. Subsection (4) is added to section 171.042,
78 Florida Statutes, to read:

79 171.042 Prerequisites to annexation.—

80 (4) Except as otherwise provided in s. 171.205, a
81 municipality may not annex an area within another municipal
82 jurisdiction without the other municipality's consent.

83 Section 3. Present subsection (4) of section 163.3168,
84 Florida Statutes, is redesignated as subsection (5), and a new
85 subsection (4) is added to that section, to read:

86 163.3168 Planning innovations and technical assistance.—

87 (4) When selecting applications for funding for technical

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88 assistance, the state land planning agency shall give a
89 preference to a county that has a population of 200,000 or less,
90 and to a municipality located within such a county, for
91 assistance in determining whether the area in and around a
92 proposed multiuse corridor interchange as described in s.
93 338.2278 contains appropriate land uses and natural resource
94 protections and for aid in developing or amending a local
95 government's comprehensive plan to provide for such uses,
96 protections, and intended benefits as provided in s. 338.2278.

97 Section 4. Paragraph (i) is added to subsection (6) of
98 section 163.3177, Florida Statutes, to read:

99 163.3177 Required and optional elements of comprehensive
100 plan; studies and surveys.—

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

103 (i) 1. In accordance with the legislative intent expressed
104 in ss. 163.3161(10) and 187.101(3) that governmental entities
105 respect judicially acknowledged and constitutionally protected
106 private property rights, each local government shall include in
107 its comprehensive plan a property rights element to ensure that
108 private property rights are considered in local decisionmaking.
109 A local government may adopt its own property rights element or
110 use the following statement of rights:

111
112 The following rights shall be considered in local
113 decisionmaking:

114
115 1. The right of a property owner to physically possess
116 and control his or her interests in the property,

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117 including easements, leases, or mineral rights.

118
119 2. The right of a property owner to use, maintain,
120 develop, and improve his or her property for personal
121 use or the use of any other person, subject to state
122 law and local ordinances.

123
124 3. The right of the property owner to privacy and to
125 exclude others from the property to protect the
126 owner's possessions and property.

127
128 4. The right of a property owner to dispose of his or
129 her property through sale or gift.

130
131 2. Each local government must adopt a property rights
132 element in its comprehensive plan by the earlier of its next
133 proposed plan amendment or July 1, 2023. If a local government
134 adopts its own property rights element, the element may not
135 conflict with the statement of rights provided in subparagraph
136 1.

137 Section 5. Section 163.3237, Florida Statutes, is amended
138 to read:

139 163.3237 Amendment or cancellation of a development
140 agreement.—A development agreement may be amended or canceled by
141 mutual consent of the parties to the agreement or by their
142 successors in interest. A party or its designated successor in
143 interest to a development agreement and a local government may
144 amend or cancel a development agreement without securing the
145 consent of other parcel owners whose property was originally

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146 subject to the development agreement, unless the amendment or
147 cancellation directly modifies the allowable uses or
148 entitlements of such owners' property.

149 Section 6. Subsection (4) of section 337.25, Florida
150 Statutes, is amended to read:

151 337.25 Acquisition, lease, and disposal of real and
152 personal property.—

153 (4) The department may convey, in the name of the state,
154 any land, building, or other property, real or personal, which
155 was acquired under subsection (1) and which the department has
156 determined is not needed for the construction, operation, and
157 maintenance of a transportation facility. When such a
158 determination has been made, property may be disposed of through
159 negotiations, sealed competitive bids, auctions, or any other
160 means the department deems to be in its best interest, with due
161 advertisement for property valued by the department at greater
162 than \$10,000. A sale may not occur at a price less than the
163 department's current estimate of value, except as provided in
164 paragraphs (a)-(d). The department may afford a right of first
165 refusal to the local government or other political subdivision
166 in the jurisdiction in which the parcel is situated, except in a
167 conveyance transacted under paragraph (a), paragraph (c), or
168 paragraph (e). Notwithstanding any provision of this section to
169 the contrary, before any conveyance under this subsection may be
170 made, except a conveyance under paragraph (a) or paragraph (c),
171 the department shall first afford a right of first refusal to
172 the previous property owner for the department's current
173 estimate of value of the property. The right of first refusal
174 must be made in writing and sent to the previous owner via

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175 certified mail or hand delivery, effective upon receipt. The
176 right of first refusal must provide the previous owner with a
177 minimum of 30 days to exercise the right in writing and must be
178 sent to the originator of the offer by certified mail or hand
179 delivery, effective upon dispatch. If the previous owner
180 exercises his or her right of first refusal, the previous owner
181 has a minimum of 90 days to close on the property.

182 (a) If the property has been donated to the state for
183 transportation purposes and a transportation facility has not
184 been constructed for at least 5 years, plans have not been
185 prepared for the construction of such facility, and the property
186 is not located in a transportation corridor, the governmental
187 entity may authorize reconveyance of the donated property for no
188 consideration to the original donor or the donor's heirs,
189 successors, assigns, or representatives.

190 (b) If the property is to be used for a public purpose, the
191 property may be conveyed without consideration to a governmental
192 entity.

193 (c) If the property was originally acquired specifically to
194 provide replacement housing for persons displaced by
195 transportation projects, the department may negotiate for the
196 sale of such property as replacement housing. As compensation,
197 the state shall receive at least its investment in such property
198 or the department's current estimate of value, whichever is
199 lower. It is expressly intended that this benefit be extended
200 only to persons actually displaced by the project. Dispositions
201 to any other person must be for at least the department's
202 current estimate of value.

203 (d) If the department determines that the property requires

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204 significant costs to be incurred or that continued ownership of
205 the property exposes the department to significant liability
206 risks, the department may use the projected maintenance costs
207 over the next 10 years to offset the property's value in
208 establishing a value for disposal of the property, even if that
209 value is zero.

210 (e) If, at the discretion of the department, a sale to a
211 person other than an abutting property owner would be
212 inequitable, the property may be sold to the abutting owner for
213 the department's current estimate of value.

214 Section 7. Subsection (2) of section 337.401, Florida
215 Statutes, is amended to read:

216 337.401 Use of right-of-way for utilities subject to
217 regulation; permit; fees.—

218 (2) The authority may grant to any person who is a resident
219 of this state, or to any corporation which is organized under
220 the laws of this state or licensed to do business within this
221 state, the use of a right-of-way for the utility in accordance
222 with such rules or regulations as the authority may adopt. No
223 utility shall be installed, located, or relocated unless
224 authorized by a written permit issued by the authority. However,
225 for public roads or publicly owned rail corridors under the
226 jurisdiction of the department, a utility relocation schedule
227 and relocation agreement may be executed in lieu of a written
228 permit. The permit shall require the permitholder to be
229 responsible for any damage resulting from the issuance of such
230 permit. The authority may initiate injunctive proceedings as
231 provided in s. 120.69 to enforce provisions of this subsection
232 or any rule or order issued or entered into pursuant thereto. A

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233 permit application required under this subsection by a county or
234 municipality having jurisdiction and control of the right-of-way
235 of any public road must be processed and acted upon in
236 accordance with the timeframes provided in subparagraphs
237 (7) (d) 7., 8., and 9.

238 Section 8. The Legislature finds and declares that this act
239 fulfills an important state interest.

240 Section 9. Paragraph (d) of subsection (4) of section
241 380.06, Florida Statutes, is amended to read:

242 380.06 Developments of regional impact.—

243 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

244 (d) Any agreement entered into by the state land planning
245 agency, the developer, and the local government with respect to
246 an approved development of regional impact previously classified
247 as essentially built out, or any other official determination
248 that an approved development of regional impact is essentially
249 built out, remains valid unless it expired on or before April 6,
250 2018, and may be amended pursuant to the processes adopted by
251 the local government for amending development orders. Any such
252 agreement or amendment may authorize the developer to exchange
253 approved land uses, subject to demonstrating that the exchange
254 will not increase impacts to public facilities. This paragraph
255 applies to all such agreements and amendments effective on or
256 after April 6, 2018.

257 Section 10. This act shall take effect July 1, 2020.