

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       163.01, F.S.; providing an exception to a prohibition  
4       against legal entities and their members exercising  
5       the power of eminent domain over or acquiring title to  
6       certain facilities or property; amending s. 163.3167,  
7       F.S.; authorizing landowners with development orders  
8       existing before the incorporation of a municipality to  
9       elect to abandon such orders and develop the vested  
10      density and intensity contained therein under  
11      specified conditions; amending s. 163.3187, F.S.;  
12      revising the required acreage thresholds under which a  
13      small scale development amendment may be adopted;  
14      providing an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18       Section 1. Paragraph (g) of subsection (7) of section  
19       163.01, Florida Statutes, is amended to read:

20       163.01 Florida Interlocal Cooperation Act of 1969.—

21       (7)

22       (g)1. Notwithstanding any other provisions of this section,  
23       any separate legal entity created under this section, the  
24       membership of which is limited to municipalities and counties of  
25       the state, and which may include a special district in addition  
26       to a municipality or county or both, may acquire, own,  
27       construct, improve, operate, and manage public facilities, or  
28       finance facilities on behalf of any person, relating to a  
29       governmental function or purpose, including, but not limited to,

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30 wastewater facilities, water or alternative water supply  
31 facilities, and water reuse facilities, which may serve  
32 populations within or outside of the members of the entity.  
33 Notwithstanding s. 367.171(7), any separate legal entity created  
34 under this paragraph is not subject to Public Service Commission  
35 jurisdiction. The separate legal entity may not provide utility  
36 services within the service area of an existing utility system  
37 unless it has received the consent of the utility.

38 2. For purposes of this paragraph, the term:

39 a. "Host government" means the governing body of the  
40 county, if the largest number of equivalent residential  
41 connections currently served by a system of the utility is  
42 located in the unincorporated area, or the governing body of a  
43 municipality, if the largest number of equivalent residential  
44 connections currently served by a system of the utility is  
45 located within that municipality's boundaries.

46 b. "Separate legal entity" means any entity created by  
47 interlocal agreement the membership of which is limited to two  
48 or more special districts, municipalities, or counties of the  
49 state, but which entity is legally separate and apart from any  
50 of its member governments.

51 c. "System" means a water or wastewater facility or group  
52 of such facilities owned by one entity or affiliate entities.

53 d. "Utility" means a water or wastewater utility and  
54 includes every person, separate legal entity, lessee, trustee,  
55 or receiver owning, operating, managing, or controlling a  
56 system, or proposing construction of a system, who is providing,  
57 or proposes to provide, water or wastewater service to the  
58 public for compensation.

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59           3. A separate legal entity that seeks to acquire any  
60 utility shall notify the host government in writing by certified  
61 mail about the contemplated acquisition not less than 30 days  
62 before any proposed transfer of ownership, use, or possession of  
63 any utility assets by such separate legal entity. The potential  
64 acquisition notice shall be provided to the legislative head of  
65 the governing body of the host government and to its chief  
66 administrative officer and shall provide the name and address of  
67 a contact person for the separate legal entity and information  
68 identified in s. 367.071(4)(a) concerning the contemplated  
69 acquisition.

70           4.a. Within 30 days following receipt of the notice, the  
71 host government may adopt a resolution to become a member of the  
72 separate legal entity, adopt a resolution to approve the utility  
73 acquisition, or adopt a resolution to prohibit the utility  
74 acquisition by the separate legal entity if the host government  
75 determines that the proposed acquisition is not in the public  
76 interest. A resolution adopted by the host government which  
77 prohibits the acquisition may include conditions that would make  
78 the proposal acceptable to the host government.

79           b. If a host government adopts a membership resolution, the  
80 separate legal entity shall accept the host government as a  
81 member on the same basis as its existing members before any  
82 transfer of ownership, use, or possession of the utility or the  
83 utility facilities. If a host government adopts a resolution to  
84 approve the utility acquisition, the separate legal entity may  
85 complete the acquisition. If a host government adopts a  
86 prohibition resolution, the separate legal entity may not  
87 acquire the utility within that host government's territory

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88 without the specific consent of the host government by future  
89 resolution. If a host government does not adopt a prohibition  
90 resolution or an approval resolution, the separate legal entity  
91 may proceed to acquire the utility after the 30-day notice  
92 period without further notice.

93 5. After the acquisition or construction of any utility  
94 systems by a separate legal entity created under this paragraph,  
95 revenues or any other income may not be transferred or paid to a  
96 member of a separate legal entity, or to any other special  
97 district, county, or municipality, from user fees or other  
98 charges or revenues generated from customers that are not  
99 physically located within the jurisdictional or service delivery  
100 boundaries of the member, special district, county, or  
101 municipality receiving the transfer or payment. Any transfer or  
102 payment to a member, special district, or other local government  
103 must be solely from user fees or other charges or revenues  
104 generated from customers that are physically located within the  
105 jurisdictional or service delivery boundaries of the member,  
106 special district, or local government receiving the transfer of  
107 payment.

108 6. This section is an alternative provision otherwise  
109 provided by law as authorized in s. 4, Art. VIII of the State  
110 Constitution for any transfer of power as a result of an  
111 acquisition of a utility by a separate legal entity from a  
112 municipality, county, or special district.

113 7. The entity may finance or refinance the acquisition,  
114 construction, expansion, and improvement of such facilities  
115 relating to a governmental function or purpose through the  
116 issuance of its bonds, notes, or other obligations under this

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117 section or as otherwise authorized by law. The entity has all  
118 the powers provided by the interlocal agreement under which it  
119 is created or which are necessary to finance, own, operate, or  
120 manage the public facility, including, without limitation, the  
121 power to establish rates, charges, and fees for products or  
122 services provided by it, the power to levy special assessments,  
123 the power to sell or finance all or a portion of such facility,  
124 and the power to contract with a public or private entity to  
125 manage and operate such facilities or to provide or receive  
126 facilities, services, or products. Except as may be limited by  
127 the interlocal agreement under which the entity is created, all  
128 of the privileges, benefits, powers, and terms of s. 125.01,  
129 relating to counties, and s. 166.021, relating to  
130 municipalities, are fully applicable to the entity. However,  
131 neither the entity nor any of its members on behalf of the  
132 entity may exercise the power of eminent domain over the  
133 facilities or property of any existing water or wastewater plant  
134 utility system, nor may the entity acquire title to any water or  
135 wastewater plant utility facilities, other facilities, or  
136 property which was acquired by the use of eminent domain after  
137 the effective date of this act, unless 10 or more years have  
138 elapsed since the date of the acquisition by eminent domain.  
139 Bonds, notes, and other obligations issued by the entity are  
140 issued on behalf of the public agencies that are members of the  
141 entity.

142 8. Any entity created under this section may also issue  
143 bond anticipation notes in connection with the authorization,  
144 issuance, and sale of bonds. The bonds may be issued as serial  
145 bonds or as term bonds or both. Any entity may issue capital

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146 appreciation bonds or variable rate bonds. Any bonds, notes, or  
147 other obligations must be authorized by resolution of the  
148 governing body of the entity and bear the date or dates; mature  
149 at the time or times, not exceeding 40 years from their  
150 respective dates; bear interest at the rate or rates; be payable  
151 at the time or times; be in the denomination; be in the form;  
152 carry the registration privileges; be executed in the manner; be  
153 payable from the sources and in the medium or payment and at the  
154 place; and be subject to the terms of redemption, including  
155 redemption prior to maturity, as the resolution may provide. If  
156 any officer whose signature, or a facsimile of whose signature,  
157 appears on any bonds, notes, or other obligations ceases to be  
158 an officer before the delivery of the bonds, notes, or other  
159 obligations, the signature or facsimile is valid and sufficient  
160 for all purposes as if he or she had remained in office until  
161 the delivery. The bonds, notes, or other obligations may be sold  
162 at public or private sale for such price as the governing body  
163 of the entity shall determine. Pending preparation of the  
164 definitive bonds, the entity may issue interim certificates,  
165 which shall be exchanged for the definitive bonds. The bonds may  
166 be secured by a form of credit enhancement, if any, as the  
167 entity deems appropriate. The bonds may be secured by an  
168 indenture of trust or trust agreement. In addition, the  
169 governing body of the legal entity may delegate, to an officer,  
170 official, or agent of the legal entity as the governing body of  
171 the legal entity may select, the power to determine the time;  
172 manner of sale, public or private; maturities; rate of interest,  
173 which may be fixed or may vary at the time and in accordance  
174 with a specified formula or method of determination; and other

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175 terms and conditions as may be deemed appropriate by the  
176 officer, official, or agent so designated by the governing body  
177 of the legal entity. However, the amount and maturity of the  
178 bonds, notes, or other obligations and the interest rate of the  
179 bonds, notes, or other obligations must be within the limits  
180 prescribed by the governing body of the legal entity and its  
181 resolution delegating to an officer, official, or agent the  
182 power to authorize the issuance and sale of the bonds, notes, or  
183 other obligations.

184 9. Bonds, notes, or other obligations issued under this  
185 paragraph may be validated as provided in chapter 75. The  
186 complaint in any action to validate the bonds, notes, or other  
187 obligations must be filed only in the Circuit Court for Leon  
188 County. The notice required to be published by s. 75.06 must be  
189 published in Leon County and in each county that is a member of  
190 the entity issuing the bonds, notes, or other obligations, or in  
191 which a member of the entity is located, and the complaint and  
192 order of the circuit court must be served only on the State  
193 Attorney of the Second Judicial Circuit and on the state  
194 attorney of each circuit in each county that is a member of the  
195 entity issuing the bonds, notes, or other obligations or in  
196 which a member of the entity is located. Section 75.04(2) does  
197 not apply to a complaint for validation brought by the legal  
198 entity.

199 10. The accomplishment of the authorized purposes of a  
200 legal entity created under this paragraph is in all respects for  
201 the benefit of the people of the state, for the increase of  
202 their commerce and prosperity, and for the improvement of their  
203 health and living conditions. Since the legal entity will

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204 perform essential governmental functions for the public health,  
205 safety, and welfare in accomplishing its purposes, the legal  
206 entity is not required to pay any taxes or assessments of any  
207 kind whatsoever upon any property acquired or used by it for  
208 such purposes or upon any revenues at any time received by it,  
209 whether the property is within or outside the jurisdiction of  
210 members of the entity. The exemption provided in this paragraph  
211 applies regardless of whether the separate legal entity enters  
212 into agreements with private firms or entities to manage,  
213 operate, or improve the utilities owned by the separate legal  
214 entity. The bonds, notes, and other obligations of an entity,  
215 their transfer, and the income therefrom, including any profits  
216 made on the sale thereof, are at all times free from taxation of  
217 any kind by the state or by any political subdivision or other  
218 agency or instrumentality thereof. The exemption granted in this  
219 subparagraph is not applicable to any tax imposed by chapter 220  
220 on interest, income, or profits on debt obligations owned by  
221 corporations.

222 Section 2. Subsection (5) of section 163.3167, Florida  
223 Statutes, is amended to read:

224 163.3167 Scope of act.—

225 (5) Nothing in this act shall limit or modify the rights of  
226 any person to complete any development that has been authorized  
227 as a development of regional impact pursuant to chapter 380 or  
228 who has been issued a final local development order and  
229 development has commenced and is continuing in good faith. Any  
230 landowner with a development order existing before the  
231 incorporation of a municipality may elect to abandon the  
232 development order and develop the vested density and intensity



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233 contained therein pursuant to the municipality's comprehensive  
234 plan and land development regulations adopted pursuant to  
235 subsection (3) so long as the vested uses, density, and  
236 intensity are consistent with the municipality's comprehensive  
237 plan and all existing obligations in the development order  
238 regarding concurrency remain.

239 Section 3. Subsections (1) and (3) of section 163.3187,  
240 Florida Statutes, are amended to read:

241 163.3187 Process for adoption of small scale ~~small-scale~~  
242 comprehensive plan amendment.—

243 (1) A small scale development amendment may be adopted  
244 under the following conditions:

245 (a) The proposed amendment involves a use of 50 ~~10~~ acres or  
246 fewer. ~~and:~~

247 (b) The proposed amendment does not involve a text change  
248 to the goals, policies, and objectives of the local government's  
249 comprehensive plan, but only proposes a land use change to the  
250 future land use map for a site-specific small scale development  
251 activity. However, text changes that relate directly to, and are  
252 adopted simultaneously with, the small scale future land use map  
253 amendment shall be permissible under this section.

254 (c) The property that is the subject of the proposed  
255 amendment is not located within an area of critical state  
256 concern, unless the project subject to the proposed amendment  
257 involves the construction of affordable housing units meeting  
258 the criteria of s. 420.0004(3), and is located within an area of  
259 critical state concern designated by s. 380.0552 or by the  
260 Administration Commission pursuant to s. 380.05(1).

261 (3) If the small scale development amendment involves a

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262 site within a rural area of opportunity as defined under s.  
263 288.0656(2)(d) for the duration of such designation, the acreage  
264 ~~10-acre~~ limit listed in subsection (1) shall be increased by 100  
265 percent ~~to 20 acres~~. The local government approving the small  
266 scale plan amendment shall certify to the state land planning  
267 agency that the plan amendment furthers the economic objectives  
268 set forth in the executive order issued under s. 288.0656(7),  
269 and the property subject to the plan amendment shall undergo  
270 public review to ensure that all concurrency requirements and  
271 federal, state, and local environmental permit requirements are  
272 met.

273 Section 4. This act shall take effect July 1, 2021.