

1                   A bill to be entitled  
2           An act relating to growth management; amending s.  
3           163.3167, F.S.; authorizing landowners with  
4           development orders existing before the incorporation  
5           of a municipality to elect to abandon such orders and  
6           develop the vested density and intensity contained  
7           therein under specified conditions; amending s.  
8           163.01, F.S.; providing an exception to a prohibition  
9           against legal entities and their members exercising  
10          the power of eminent domain over or acquiring title to  
11          certain facilities or property; amending s. 163.3187,  
12          F.S.; revising the required acreage thresholds for  
13          adopting an amendment using a small scale development  
14          amendment; providing an effective date.

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

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18           Section 1. Subsection (5) of section 163.3167, Florida  
19 Statutes, is amended to read:

20           163.3167 Scope of act.—

21           (5) Nothing in this act shall limit or modify the rights  
22 of any person to complete any development that has been  
23 authorized as a development of regional impact pursuant to  
24 chapter 380 or who has been issued a final local development  
25 order and development has commenced and is continuing in good

26 | faith. Any landowner with a development order existing before  
27 | the incorporation of a municipality may elect to abandon the  
28 | development order and develop the vested density and intensity  
29 | contained therein pursuant to the municipality's comprehensive  
30 | plan and land development regulations adopted pursuant to  
31 | subsection (3) so long as the vested uses, density, and  
32 | intensity are consistent with the municipality's comprehensive  
33 | plan and all existing obligations in the development order  
34 | regarding concurrency remain.

35 | Section 2. Paragraph (g) of subsection (7) of section  
36 | 163.01, Florida Statutes, is amended to read:

37 | 163.01 Florida Interlocal Cooperation Act of 1969.—

38 | (7)

39 | (g)1. Notwithstanding any other provisions of this  
40 | section, any separate legal entity created under this section,  
41 | the membership of which is limited to municipalities and  
42 | counties of the state, and which may include a special district  
43 | in addition to a municipality or county or both, may acquire,  
44 | own, construct, improve, operate, and manage public facilities,  
45 | or finance facilities on behalf of any person, relating to a  
46 | governmental function or purpose, including, but not limited to,  
47 | wastewater facilities, water or alternative water supply  
48 | facilities, and water reuse facilities, which may serve  
49 | populations within or outside of the members of the entity.  
50 | Notwithstanding s. 367.171(7), any separate legal entity created

51 | under this paragraph is not subject to Public Service Commission  
52 | jurisdiction. The separate legal entity may not provide utility  
53 | services within the service area of an existing utility system  
54 | unless it has received the consent of the utility.

55 |       2. For purposes of this paragraph, the term:

56 |       a. "Host government" means the governing body of the  
57 | county, if the largest number of equivalent residential  
58 | connections currently served by a system of the utility is  
59 | located in the unincorporated area, or the governing body of a  
60 | municipality, if the largest number of equivalent residential  
61 | connections currently served by a system of the utility is  
62 | located within that municipality's boundaries.

63 |       b. "Separate legal entity" means any entity created by  
64 | interlocal agreement the membership of which is limited to two  
65 | or more special districts, municipalities, or counties of the  
66 | state, but which entity is legally separate and apart from any  
67 | of its member governments.

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

70 |       d. "Utility" means a water or wastewater utility and  
71 | includes every person, separate legal entity, lessee, trustee,  
72 | or receiver owning, operating, managing, or controlling a  
73 | system, or proposing construction of a system, who is providing,  
74 | or proposes to provide, water or wastewater service to the  
75 | public for compensation.

76 | 3. A separate legal entity that seeks to acquire any  
77 | utility shall notify the host government in writing by certified  
78 | mail about the contemplated acquisition not less than 30 days  
79 | before any proposed transfer of ownership, use, or possession of  
80 | any utility assets by such separate legal entity. The potential  
81 | acquisition notice shall be provided to the legislative head of  
82 | the governing body of the host government and to its chief  
83 | administrative officer and shall provide the name and address of  
84 | a contact person for the separate legal entity and information  
85 | identified in s. 367.071(4)(a) concerning the contemplated  
86 | acquisition.

87 | 4.a. Within 30 days following receipt of the notice, the  
88 | host government may adopt a resolution to become a member of the  
89 | separate legal entity, adopt a resolution to approve the utility  
90 | acquisition, or adopt a resolution to prohibit the utility  
91 | acquisition by the separate legal entity if the host government  
92 | determines that the proposed acquisition is not in the public  
93 | interest. A resolution adopted by the host government which  
94 | prohibits the acquisition may include conditions that would make  
95 | the proposal acceptable to the host government.

96 | b. If a host government adopts a membership resolution,  
97 | the separate legal entity shall accept the host government as a  
98 | member on the same basis as its existing members before any  
99 | transfer of ownership, use, or possession of the utility or the  
100 | utility facilities. If a host government adopts a resolution to

101 approve the utility acquisition, the separate legal entity may  
102 complete the acquisition. If a host government adopts a  
103 prohibition resolution, the separate legal entity may not  
104 acquire the utility within that host government's territory  
105 without the specific consent of the host government by future  
106 resolution. If a host government does not adopt a prohibition  
107 resolution or an approval resolution, the separate legal entity  
108 may proceed to acquire the utility after the 30-day notice  
109 period without further notice.

110 5. After the acquisition or construction of any utility  
111 systems by a separate legal entity created under this paragraph,  
112 revenues or any other income may not be transferred or paid to a  
113 member of a separate legal entity, or to any other special  
114 district, county, or municipality, from user fees or other  
115 charges or revenues generated from customers that are not  
116 physically located within the jurisdictional or service delivery  
117 boundaries of the member, special district, county, or  
118 municipality receiving the transfer or payment. Any transfer or  
119 payment to a member, special district, or other local government  
120 must be solely from user fees or other charges or revenues  
121 generated from customers that are physically located within the  
122 jurisdictional or service delivery boundaries of the member,  
123 special district, or local government receiving the transfer of  
124 payment.

125 6. This section is an alternative provision otherwise

126 | provided by law as authorized in s. 4, Art. VIII of the State  
127 | Constitution for any transfer of power as a result of an  
128 | acquisition of a utility by a separate legal entity from a  
129 | municipality, county, or special district.

130 |         7. The entity may finance or refinance the acquisition,  
131 | construction, expansion, and improvement of such facilities  
132 | relating to a governmental function or purpose through the  
133 | issuance of its bonds, notes, or other obligations under this  
134 | section or as otherwise authorized by law. The entity has all  
135 | the powers provided by the interlocal agreement under which it  
136 | is created or which are necessary to finance, own, operate, or  
137 | manage the public facility, including, without limitation, the  
138 | power to establish rates, charges, and fees for products or  
139 | services provided by it, the power to levy special assessments,  
140 | the power to sell or finance all or a portion of such facility,  
141 | and the power to contract with a public or private entity to  
142 | manage and operate such facilities or to provide or receive  
143 | facilities, services, or products. Except as may be limited by  
144 | the interlocal agreement under which the entity is created, all  
145 | of the privileges, benefits, powers, and terms of s. 125.01,  
146 | relating to counties, and s. 166.021, relating to  
147 | municipalities, are fully applicable to the entity. However,  
148 | neither the entity nor any of its members on behalf of the  
149 | entity may exercise the power of eminent domain over the  
150 | facilities or property of any existing water or wastewater plant

151 utility system, nor may the entity acquire title to any water or  
152 wastewater plant utility facilities, other facilities, or  
153 property which was acquired by the use of eminent domain after  
154 the effective date of this act, unless 10 or more years have  
155 elapsed since the date of the acquisition by eminent domain.

156 Bonds, notes, and other obligations issued by the entity are  
157 issued on behalf of the public agencies that are members of the  
158 entity.

159 8. Any entity created under this section may also issue  
160 bond anticipation notes in connection with the authorization,  
161 issuance, and sale of bonds. The bonds may be issued as serial  
162 bonds or as term bonds or both. Any entity may issue capital  
163 appreciation bonds or variable rate bonds. Any bonds, notes, or  
164 other obligations must be authorized by resolution of the  
165 governing body of the entity and bear the date or dates; mature  
166 at the time or times, not exceeding 40 years from their  
167 respective dates; bear interest at the rate or rates; be payable  
168 at the time or times; be in the denomination; be in the form;  
169 carry the registration privileges; be executed in the manner; be  
170 payable from the sources and in the medium or payment and at the  
171 place; and be subject to the terms of redemption, including  
172 redemption prior to maturity, as the resolution may provide. If  
173 any officer whose signature, or a facsimile of whose signature,  
174 appears on any bonds, notes, or other obligations ceases to be  
175 an officer before the delivery of the bonds, notes, or other

176 obligations, the signature or facsimile is valid and sufficient  
177 for all purposes as if he or she had remained in office until  
178 the delivery. The bonds, notes, or other obligations may be sold  
179 at public or private sale for such price as the governing body  
180 of the entity shall determine. Pending preparation of the  
181 definitive bonds, the entity may issue interim certificates,  
182 which shall be exchanged for the definitive bonds. The bonds may  
183 be secured by a form of credit enhancement, if any, as the  
184 entity deems appropriate. The bonds may be secured by an  
185 indenture of trust or trust agreement. In addition, the  
186 governing body of the legal entity may delegate, to an officer,  
187 official, or agent of the legal entity as the governing body of  
188 the legal entity may select, the power to determine the time;  
189 manner of sale, public or private; maturities; rate of interest,  
190 which may be fixed or may vary at the time and in accordance  
191 with a specified formula or method of determination; and other  
192 terms and conditions as may be deemed appropriate by the  
193 officer, official, or agent so designated by the governing body  
194 of the legal entity. However, the amount and maturity of the  
195 bonds, notes, or other obligations and the interest rate of the  
196 bonds, notes, or other obligations must be within the limits  
197 prescribed by the governing body of the legal entity and its  
198 resolution delegating to an officer, official, or agent the  
199 power to authorize the issuance and sale of the bonds, notes, or  
200 other obligations.



201           9. Bonds, notes, or other obligations issued under this  
202 paragraph may be validated as provided in chapter 75. The  
203 complaint in any action to validate the bonds, notes, or other  
204 obligations must be filed only in the Circuit Court for Leon  
205 County. The notice required to be published by s. 75.06 must be  
206 published in Leon County and in each county that is a member of  
207 the entity issuing the bonds, notes, or other obligations, or in  
208 which a member of the entity is located, and the complaint and  
209 order of the circuit court must be served only on the State  
210 Attorney of the Second Judicial Circuit and on the state  
211 attorney of each circuit in each county that is a member of the  
212 entity issuing the bonds, notes, or other obligations or in  
213 which a member of the entity is located. Section 75.04(2) does  
214 not apply to a complaint for validation brought by the legal  
215 entity.

216           10. The accomplishment of the authorized purposes of a  
217 legal entity created under this paragraph is in all respects for  
218 the benefit of the people of the state, for the increase of  
219 their commerce and prosperity, and for the improvement of their  
220 health and living conditions. Since the legal entity will  
221 perform essential governmental functions for the public health,  
222 safety, and welfare in accomplishing its purposes, the legal  
223 entity is not required to pay any taxes or assessments of any  
224 kind whatsoever upon any property acquired or used by it for  
225 such purposes or upon any revenues at any time received by it,

226 whether the property is within or outside the jurisdiction of  
 227 members of the entity. The exemption provided in this paragraph  
 228 applies regardless of whether the separate legal entity enters  
 229 into agreements with private firms or entities to manage,  
 230 operate, or improve the utilities owned by the separate legal  
 231 entity. The bonds, notes, and other obligations of an entity,  
 232 their transfer, and the income therefrom, including any profits  
 233 made on the sale thereof, are at all times free from taxation of  
 234 any kind by the state or by any political subdivision or other  
 235 agency or instrumentality thereof. The exemption granted in this  
 236 subparagraph is not applicable to any tax imposed by chapter 220  
 237 on interest, income, or profits on debt obligations owned by  
 238 corporations.

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

241 163.3187 Process for adoption of small-scale comprehensive  
 242 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 ~~40~~ acres  
 246 or fewer and:

247 (3) If the small scale development amendment involves a  
 248 site within a rural area of opportunity as defined under s.  
 249 288.0656(2)(d) for the duration of such designation, the acreage  
 250 ~~10-acre~~ limit listed in subsection (1) shall be increased by 100

251 | percent ~~to 20 acres~~. The local government approving the small  
252 | scale plan amendment shall certify to the state land planning  
253 | agency that the plan amendment furthers the economic objectives  
254 | set forth in the executive order issued under s. 288.0656(7),  
255 | and the property subject to the plan amendment shall undergo  
256 | public review to ensure that all concurrency requirements and  
257 | federal, state, and local environmental permit requirements are  
258 | met.

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