

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: State Affairs Committee
2 Representative McClain offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:
6 Section 1. Subsection (3) of section 163.3167, Florida
7 Statutes, is amended to read:

8 163.3167 Scope of act.—

9 (3) A municipality established after the effective date of
10 this act shall, within 1 year after incorporation, establish a
11 local planning agency, pursuant to s. 163.3174, and prepare and
12 adopt a comprehensive plan of the type and in the manner set out
13 in this act within 3 years after the date of such incorporation.
14 A county comprehensive plan is controlling until the
15 municipality adopts a comprehensive plan in accordance with this
16 act. A comprehensive plan for a newly incorporated municipality

Amendment No.

17 which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and
18 all land development regulations adopted to implement the
19 comprehensive plan must incorporate each development order
20 existing before the comprehensive plan's effective date, may not
21 impair the completion of a development in accordance with such
22 existing development order, and must vest the density and
23 intensity approved by such development order existing on the
24 effective date of the comprehensive plan without limitation or
25 modification.

26 Section 2. Paragraph (i) is added to subsection (6) of
27 section 163.3177, Florida Statutes, to read:

28 163.3177 Required and optional elements of comprehensive
29 plan; studies and surveys.—

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

33 (i)1. In accordance with the legislative intent expressed
34 in ss. 163.3161(10) and 187.101(3) that governmental entities
35 respect judicially acknowledged and constitutionally protected
36 private property rights, each local government shall include in
37 its comprehensive plan a property rights element to ensure that
38 private property rights are considered in local decisionmaking.
39 A local government may adopt its own property rights element or
40 use the following statement of rights:

Amendment No.

42 The following rights shall be considered in local
43 decisionmaking:

44
45 1. The right of a property owner to physically
46 possess and control his or her interests in the
47 property, including easements, leases, or mineral
48 rights.

49
50 2. The right of a property owner to use, maintain,
51 develop, and improve his or her property for personal
52 use or the use of any other person, subject to state
53 law and local ordinances.

54
55 3. The right of the property owner to privacy and to
56 exclude others from the property to protect the
57 owner's possessions and property.

58
59 4. The right of a property owner to dispose of his or
60 her property through sale or gift.

61
62 2. Each local government must adopt a property rights
63 element in its comprehensive plan by the earlier of its adoption
64 of its next proposed plan amendment that is initiated after July
65 1, 2021, or the next scheduled evaluation and appraisal of its
66 comprehensive plan pursuant to s. 163.3191. If a local

457855 - h0059-strike.docx

Published On: 3/9/2021 5:27:44 PM

Amendment No.

67 government adopts its own property rights element, the element
68 may not conflict with the statement of rights provided in
69 subparagraph 1.

70 Section 3. Section 163.3237, Florida Statutes, is amended
71 to read:

72 163.3237 Amendment or cancellation of a development
73 agreement.—A development agreement may be amended or canceled by
74 mutual consent of the parties to the agreement or by their
75 successors in interest. A party or its designated successor in
76 interest to a development agreement and a local government may
77 amend or cancel a development agreement without securing the
78 consent of other parcel owners whose property was originally
79 subject to the development agreement, unless the amendment or
80 cancellation directly modifies the allowable uses or
81 entitlements of such owners' property.

82 Section 4. Subsection (4) of section 337.25, Florida
83 Statutes, is amended to read:

84 337.25 Acquisition, lease, and disposal of real and
85 personal property.—

86 (4) The department may convey, in the name of the state,
87 any land, building, or other property, real or personal, which
88 was acquired under subsection (1) and which the department has
89 determined is not needed for the construction, operation, and
90 maintenance of a transportation facility. When such a
91 determination has been made, property may be disposed of through

Amendment No.

92 negotiations, sealed competitive bids, auctions, or any other
93 means the department deems to be in its best interest, with due
94 advertisement for property valued by the department at greater
95 than \$10,000. A sale may not occur at a price less than the
96 department's current estimate of value, except as provided in
97 paragraphs (a)-(d). The department may afford a right of first
98 refusal to the local government or other political subdivision
99 in the jurisdiction in which the parcel is situated, except in a
100 conveyance transacted under paragraph (a), paragraph (c), or
101 paragraph (e). Notwithstanding any provision of this section to
102 the contrary, before any conveyance under this subsection may be
103 made, except a conveyance under paragraph (a) or paragraph (c),
104 the department shall first afford a right of first refusal to
105 the previous property owner for the department's current
106 estimate of value of the property. The right of first refusal
107 must be made in writing and sent to the previous owner via
108 certified mail or hand delivery, effective upon receipt. The
109 right of first refusal must provide the previous owner with a
110 minimum of 30 days to exercise the right in writing and must be
111 sent to the originator of the offer by certified mail or hand
112 delivery, effective upon dispatch. If the previous owner
113 exercises his or her right of first refusal, the previous owner
114 has a minimum of 90 days to close on the property.

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

Amendment No.

117 | been constructed for at least 5 years, plans have not been
118 | prepared for the construction of such facility, and the property
119 | is not located in a transportation corridor, the governmental
120 | entity may authorize reconveyance of the donated property for no
121 | consideration to the original donor or the donor's heirs,
122 | successors, assigns, or representatives.

123 | (b) If the property is to be used for a public purpose,
124 | the property may be conveyed without consideration to a
125 | governmental entity.

126 | (c) If the property was originally acquired specifically
127 | to provide replacement housing for persons displaced by
128 | transportation projects, the department may negotiate for the
129 | sale of such property as replacement housing. As compensation,
130 | the state shall receive at least its investment in such property
131 | or the department's current estimate of value, whichever is
132 | lower. It is expressly intended that this benefit be extended
133 | only to persons actually displaced by the project. Dispositions
134 | to any other person must be for at least the department's
135 | current estimate of value.

136 | (d) If the department determines that the property
137 | requires significant costs to be incurred or that continued
138 | ownership of the property exposes the department to significant
139 | liability risks, the department may use the projected
140 | maintenance costs over the next 10 years to offset the
141 | property's value in establishing a value for disposal of the

457855 - h0059-strike.docx

Published On: 3/9/2021 5:27:44 PM

Amendment No.

142 property, even if that value is zero.

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

147 Section 5. Paragraph (d) of subsection (4) of section
148 380.06, Florida Statutes, is amended to read:

149 380.06 Developments of regional impact.—

150 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

151 (d) Any agreement entered into by the state land planning
152 agency, the developer, and the local government with respect to
153 an approved development of regional impact previously classified
154 as essentially built out, or any other official determination
155 that an approved development of regional impact is essentially
156 built out, remains valid unless it expired on or before April 6,
157 2018, and may be amended pursuant to the processes adopted by
158 the local government for amending development orders. Any such
159 agreement or amendment may authorize the developer to exchange
160 approved land uses, subject to demonstrating that the exchange
161 will not increase impacts to public facilities. This paragraph
162 applies to all such agreements and amendments effective on or
163 after April 6, 2018.

164 Section 6. The Legislature finds and declares that this
165 act fulfills an important state interest.

166 Section 7. This act shall take effect July 1, 2021.

457855 - h0059-strike.docx

Published On: 3/9/2021 5:27:44 PM

Amendment No.

167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to growth management; amending s. 163.3167,
F.S.; specifying requirements for certain comprehensive plans
effective, rather than adopted, after a specified date and for
associated land development regulations; amending s. 163.3177,
F.S.; requiring local governments to include a property rights
element in their comprehensive plans; providing a statement of
rights which a local government may use; requiring a local
government to adopt a property rights element by the earlier of
its adoption of its next proposed plan amendment initiated after
a certain date or the next scheduled evaluation and appraisal of
its comprehensive plan; prohibiting a local government's
property rights element from conflicting with the statement of
rights contained in the act; amending s. 163.3237, F.S.;
providing that the consent of certain property owners is not
required for development agreement changes under certain
circumstances; providing an exception; amending s. 337.25, F.S.;
requiring the Department of Transportation to afford a right of
first refusal to certain individuals under specified
circumstances; providing requirements and procedures for the
right of first refusal; amending s. 380.06, F.S.; authorizing
certain developments of regional impact agreements to be amended

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 59 (2021)

Amendment No.

192 | under certain circumstances; providing retroactive
193 | applicability; providing a declaration of important state
194 | interest; providing an effective date.