

By the Committee on Community Affairs; and Senator Trumbull

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1 A bill to be entitled
2 An act relating to local ordinances; amending s.
3 57.112, F.S.; authorizing courts to assess and award
4 reasonable attorney fees and costs and damages in
5 certain civil actions filed against local governments;
6 specifying a limitation on awards and a restriction on
7 fees and costs of certain litigation; providing
8 construction and applicability; amending s. 125.66,
9 F.S.; requiring a board of county commissioners to
10 prepare or cause to be prepared a business impact
11 estimate before the enactment of a proposed ordinance;
12 specifying requirements for the posting and content of
13 the estimate; providing construction and
14 applicability; creating s. 125.675, F.S.; requiring a
15 county to suspend enforcement of an ordinance that is
16 the subject of a certain legal action if certain
17 conditions are met; authorizing a prevailing county to
18 enforce the ordinance after a specified period, except
19 under certain circumstances; requiring courts to give
20 priority to certain cases; providing construction
21 relating to an attorney's or a party's signature;
22 requiring a court to impose sanctions under certain
23 circumstances; providing applicability; authorizing
24 courts to award attorney fees and costs and damages if
25 certain conditions are met; amending s. 166.041, F.S.;
26 requiring a governing body of a municipality to
27 prepare or cause to be prepared a business impact
28 estimate before the enactment of a proposed ordinance;
29 specifying requirements for the posting and content of

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30 the estimate; providing construction and
31 applicability; creating s. 166.0411, F.S.; requiring a
32 municipality to suspend enforcement of an ordinance
33 that is the subject of a certain legal action if
34 certain conditions are met; authorizing a prevailing
35 municipality to enforce the ordinance after a
36 specified period, except under certain circumstances;
37 requiring courts to give priority to certain cases;
38 providing construction relating to an attorney's or a
39 party's signature; requiring a court to impose
40 sanctions under certain circumstances; providing
41 applicability; authorizing courts to award attorney
42 fees and costs and damages if certain conditions are
43 met; amending ss. 163.2517, 163.3181, 163.3215,
44 376.80, 497.270, 562.45, and 847.0134, F.S.;

45 conforming cross-references; providing a declaration
46 of important state interest; providing an effective
47 date.

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. Section 57.112, Florida Statutes, is amended to
52 read:

53 57.112 Attorney fees and costs and damages; arbitrary,
54 unreasonable, or expressly preempted local ordinances actions.-

55 (1) As used in this section, the term "attorney fees and
56 costs" means the reasonable and necessary attorney fees and
57 costs incurred for all preparations, motions, hearings, trials,
58 and appeals in a proceeding.

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59 (2) If a civil action is filed against a local government
60 to challenge the adoption or enforcement of a local ordinance on
61 the grounds that it is expressly preempted by the State
62 Constitution or by state law, the court shall assess and award
63 reasonable attorney fees and costs and damages to the prevailing
64 party.

65 (3) If a civil action is filed against a local government
66 to challenge the adoption of a local ordinance on the grounds
67 that the ordinance is arbitrary or unreasonable, the court may
68 assess and award reasonable attorney fees and costs and damages
69 to a prevailing plaintiff. An award of reasonable attorney fees
70 or costs and damages pursuant to this subsection may not exceed
71 \$50,000. In addition, a prevailing plaintiff may not recover any
72 attorney fees or costs directly incurred by or associated with
73 litigation to determine an award of reasonable attorney fees or
74 costs.

75 (4) Attorney fees and costs and damages may not be awarded
76 pursuant to this section if:

77 (a) The governing body of a local governmental entity
78 receives written notice that an ordinance that has been publicly
79 noticed or adopted is expressly preempted by the State
80 Constitution or state law or is arbitrary or unreasonable; and

81 (b) The governing body of the local governmental entity
82 withdraws the proposed ordinance within 30 days; or, in the case
83 of an adopted ordinance, the governing body of a local
84 government notices an intent to repeal the ordinance within 30
85 days after ~~of~~ receipt of the notice and repeals the ordinance
86 within 30 days thereafter.

87 (5) ~~(4)~~ The provisions in this section are supplemental to

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88 all other sanctions or remedies available under law or court
89 rule. However, this section may not be construed to authorize
90 double recovery if an affected person prevails on a claim
91 brought against a local government pursuant to other applicable
92 law involving the same ordinance, operative acts, or
93 transactions.

94 (6)~~(5)~~ This section does not apply to local ordinances
95 adopted pursuant to part II of chapter 163, s. 553.73, or s.
96 633.202.

97 (7) (a)~~(6)~~ Except as provided in paragraph (b), this section
98 is intended to be prospective in nature and applies ~~shall apply~~
99 only to cases commenced on or after July 1, 2019.

100 (b) The amendments to this section effective October 1,
101 2023, are prospective in nature and apply only to ordinances
102 adopted on or after October 1, 2023.

103 (c) An amendment to an ordinance enacted after October 1,
104 2023, gives rise to a claim under this section only to the
105 extent that the application of the amendatory language is the
106 cause of the claim apart from the ordinance being amended.

107 Section 2. Present subsections (3) through (6) of section
108 125.66, Florida Statutes, are redesignated as subsections (4)
109 through (7), respectively, a new subsection (3) is added to that
110 section, and paragraph (a) of subsection (2) of that section is
111 amended, to read:

112 125.66 Ordinances; enactment procedure; emergency
113 ordinances; rezoning or change of land use ordinances or
114 resolutions.—

115 (2) (a) The regular enactment procedure is ~~shall be~~ as
116 follows: The board of county commissioners at any regular or

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117 special meeting may enact or amend any ordinance, except as
118 provided in subsection (5) ~~(4)~~, if notice of intent to consider
119 such ordinance is given at least 10 days before such meeting by
120 publication as provided in chapter 50. A copy of such notice
121 must ~~shall~~ be kept available for public inspection during the
122 regular business hours of the office of the clerk of the board
123 of county commissioners. The notice of proposed enactment must
124 ~~shall~~ state the date, time, and place of the meeting; the title
125 or titles of proposed ordinances; and the place or places within
126 the county where such proposed ordinances may be inspected by
127 the public. The notice must ~~shall~~ also advise that interested
128 parties may appear at the meeting and be heard with respect to
129 the proposed ordinance.

130 (3) (a) Before the enactment of a proposed ordinance, the
131 board of county commissioners shall prepare or cause to be
132 prepared a business impact estimate in accordance with this
133 subsection. The business impact estimate must be posted on the
134 county's website no later than the date the notice of proposed
135 enactment is published pursuant to paragraph (2) (a) and must
136 include all of the following:

137 1. A summary of the proposed ordinance, including a
138 statement of the public purpose to be served by the proposed
139 ordinance, such as serving the public health, safety, morals,
140 and welfare of the county.

141 2. An estimate of the direct economic impact of the
142 proposed ordinance on private, for-profit businesses in the
143 county, including the following, if any:

144 a. An estimate of direct compliance costs that businesses
145 may reasonably incur if the ordinance is enacted.

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146 b. Identification of any new charge or fee on businesses
147 subject to the proposed ordinance or for which businesses will
148 be financially responsible.

149 c. An estimate of the county's regulatory costs, including
150 an estimate of revenues from any new charges or fees that will
151 be imposed on businesses to cover such costs.

152 3. A good faith estimate of the number of businesses likely
153 to be impacted by the ordinance.

154 4. Any additional information the board determines may be
155 useful.

156 (b) This subsection may not be construed to require a
157 county to procure an accountant or other financial consultant to
158 prepare the business impact estimate required by this
159 subsection.

160 (c) This subsection does not apply to:

161 1. Ordinances required for compliance with federal or state
162 law or regulation;

163 2. Ordinances relating to the issuance or refinancing of
164 debt;

165 3. Ordinances relating to the adoption of budgets or budget
166 amendments, including revenue sources necessary to fund the
167 budget;

168 4. Ordinances required to implement a contract or an
169 agreement, including, but not limited to, any federal, state,
170 local, or private grant, or other financial assistance accepted
171 by a county government;

172 5. Emergency ordinances;

173 6. Ordinances relating to procurement; or

174 7. Ordinances enacted to implement the following:

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175 a. Part II of chapter 163, relating to growth policy,
176 county and municipal planning, and land development regulation,
177 including zoning, development orders, development agreements,
178 and development permits;

179 b. Sections 190.005 and 190.046;

180 c. Section 553.73, relating to the Florida Building Code;

181 or

182 d. Section 633.202, relating to the Florida Fire Prevention
183 Code.

184 Section 3. Section 125.675, Florida Statutes, is created to
185 read:

186 125.675 Legal challenges to certain recently enacted
187 ordinances.—

188 (1) A county must suspend enforcement of an ordinance that
189 is the subject of an action challenging the ordinance's validity
190 on the grounds that it is expressly preempted by the State
191 Constitution or by state law or is arbitrary or unreasonable if:

192 (a) The action was filed with the court no later than 90
193 days after the adoption of the ordinance;

194 (b) The plaintiff requests suspension in the initial
195 complaint or petition, citing this section; and

196 (c) The county has been served with a copy of the complaint
197 or petition.

198 (2) When the plaintiff appeals a final judgment finding
199 that an ordinance is valid and enforceable, the county may
200 enforce the ordinance 45 days after the entry of the order
201 unless the plaintiff obtains a stay of the lower court's order.

202 (3) The court shall give cases in which the enforcement of
203 an ordinance is suspended under this section priority over other

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204 pending cases and shall render a preliminary or final decision
205 on the validity of the ordinance as expeditiously as possible.

206 (4) The signature of an attorney or a party constitutes a
207 certificate that he or she has read the pleading, motion, or
208 other paper and that, to the best of his or her knowledge,
209 information, and belief formed after reasonable inquiry, it is
210 not interposed for any improper purpose, such as to harass or to
211 cause unnecessary delay, or for economic advantage, competitive
212 reasons, or frivolous purposes or needless increase in the cost
213 of litigation. If a pleading, motion, or other paper is signed
214 in violation of these requirements, the court, upon its own
215 initiative or upon favorably ruling on a party's motion for
216 sanctions, must impose upon the person who signed it, a
217 represented party, or both, an appropriate sanction, which may
218 include an order to pay to the other party or parties the amount
219 of reasonable expenses incurred because of the filing of the
220 pleading, motion, or other paper, including reasonable attorney
221 fees.

222 (5) This section does not apply to:

223 (a) Ordinances required for compliance with federal or
224 state law or regulation;

225 (b) Ordinances relating to the issuance or refinancing of
226 debt;

227 (c) Ordinances relating to the adoption of budgets or
228 budget amendments, including revenue sources necessary to fund
229 the budget;

230 (d) Ordinances required to implement a contract or an
231 agreement, including, but not limited to, any federal, state,
232 local, or private grant, or other financial assistance accepted

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233 by a county government;
 234 (e) Emergency ordinances;
 235 (f) Ordinances relating to procurement; or
 236 (g) Ordinances enacted to implement the following:
 237 1. Part II of chapter 163, relating to growth policy,
 238 county and municipal planning, and land development regulation,
 239 including zoning, development orders, development agreements,
 240 and development permits;
 241 2. Sections 190.005 and 190.046;
 242 3. Section 553.73, relating to the Florida Building Code;
 243 or
 244 4. Section 633.202, relating to the Florida Fire Prevention
 245 Code.
 246 (6) The court may award attorney fees and costs and damages
 247 as provided in s. 57.112.

248 Section 4. Present subsections (4) through (8) of section
 249 166.041, Florida Statutes, are redesignated as subsections (5)
 250 through (9), respectively, and a new subsection (4) is added to
 251 that section, to read:

252 166.041 Procedures for adoption of ordinances and
 253 resolutions.—

254 (4) (a) Before the enactment of a proposed ordinance, the
 255 governing body of a municipality shall prepare or cause to be
 256 prepared a business impact estimate in accordance with this
 257 subsection. The business impact estimate must be posted on the
 258 municipality's website no later than the date the notice of
 259 proposed enactment is published pursuant to paragraph (3) (a) and
 260 must include all of the following:
 261 1. A summary of the proposed ordinance, including a

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262 statement of the public purpose to be served by the proposed
263 ordinance, such as serving the public health, safety, morals,
264 and welfare of the municipality.

265 2. An estimate of the direct economic impact of the
266 proposed ordinance on private, for-profit businesses in the
267 municipality, including the following, if any:

268 a. An estimate of direct compliance costs that businesses
269 may reasonably incur if the ordinance is enacted;

270 b. Identification of any new charge or fee on businesses
271 subject to the proposed ordinance, or for which businesses will
272 be financially responsible; and

273 c. An estimate of the municipality's regulatory costs,
274 including an estimate of revenues from any new charges or fees
275 that will be imposed on businesses to cover such costs.

276 3. A good faith estimate of the number of businesses likely
277 to be impacted by the ordinance.

278 4. Any additional information the governing body determines
279 may be useful.

280 (b) This subsection may not be construed to require a
281 municipality to procure an accountant or other financial
282 consultant to prepare the business impact estimate required by
283 this subsection.

284 (c) This subsection does not apply to:

285 1. Ordinances required for compliance with federal or state
286 law or regulation;

287 2. Ordinances relating to the issuance or refinancing of
288 debt;

289 3. Ordinances relating to the adoption of budgets or budget
290 amendments, including revenue sources necessary to fund the

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291 budget;

292 4. Ordinances required to implement a contract or an
293 agreement, including, but not limited to, any federal, state,
294 local, or private grant, or other financial assistance accepted
295 by a municipal government;

296 5. Emergency ordinances;

297 6. Ordinances relating to procurement; or

298 7. Ordinances enacted to implement the following:

299 a. Part II of chapter 163, relating to growth policy,
300 county and municipal planning, and land development regulation,
301 including zoning, development orders, development agreements,
302 and development permits;

303 b. Sections 190.005 and 190.046;

304 c. Section 553.73, relating to the Florida Building Code;

305 or

306 d. Section 633.202, relating to the Florida Fire Prevention
307 Code.

308 Section 5. Section 166.0411, Florida Statutes, is created
309 to read:

310 166.0411 Legal challenges to certain recently enacted
311 ordinances.—

312 (1) A municipality must suspend enforcement of an ordinance
313 that is the subject of an action challenging the ordinance's
314 validity on the grounds that it is expressly preempted by the
315 State Constitution or by state law or is arbitrary or
316 unreasonable if:

317 (a) The action was filed with the court no later than 90
318 days after the adoption of the ordinance;

319 (b) The plaintiff requests suspension in the initial

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320 complaint or petition, citing this section; and

321 (c) The municipality has been served with a copy of the
322 complaint or petition.

323 (2) When the plaintiff appeals a final judgment finding
324 that an ordinance is valid and enforceable, the municipality may
325 enforce the ordinance 45 days after the entry of the order
326 unless the plaintiff obtains a stay of the lower court's order.

327 (3) The court shall give cases in which the enforcement of
328 an ordinance is suspended under this section priority over other
329 pending cases and shall render a preliminary or final decision
330 on the validity of the ordinance as expeditiously as possible.

331 (4) The signature of an attorney or a party constitutes a
332 certificate that he or she has read the pleading, motion, or
333 other paper and that, to the best of his or her knowledge,
334 information, and belief formed after reasonable inquiry, it is
335 not interposed for any improper purpose, such as to harass or to
336 cause unnecessary delay, or for economic advantage, competitive
337 reasons, or frivolous purposes or needless increase in the cost
338 of litigation. If a pleading, motion, or other paper is signed
339 in violation of these requirements, the court, upon its own
340 initiative or upon favorably ruling on a party's motion for
341 sanctions, must impose upon the person who signed it, a
342 represented party, or both, an appropriate sanction, which may
343 include an order to pay to the other party or parties the amount
344 of reasonable expenses incurred because of the filing of the
345 pleading, motion, or other paper, including reasonable attorney
346 fees.

347 (5) This section does not apply to:

348 (a) Ordinances required for compliance with federal or

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- 349 state law or regulation;
- 350 (b) Ordinances relating to the issuance or refinancing of
- 351 debt;
- 352 (c) Ordinances relating to the adoption of budgets or
- 353 budget amendments, including revenue sources necessary to fund
- 354 the budget;
- 355 (d) Ordinances required to implement a contract or an
- 356 agreement, including, but not limited to, any federal, state,
- 357 local, or private grant, or other financial assistance accepted
- 358 by a municipal government;
- 359 (e) Emergency ordinances;
- 360 (f) Ordinances relating to procurement; or
- 361 (g) Ordinances enacted to implement the following:
- 362 1. Part II of chapter 163, relating to growth policy,
- 363 county and municipal planning, and land development regulation,
- 364 including zoning, development orders, development agreements,
- 365 and development permits;
- 366 2. Sections 190.005 and 190.046;
- 367 3. Section 553.73, relating to the Florida Building Code;
- 368 or
- 369 4. Section 633.202, relating to the Florida Fire Prevention
- 370 Code.
- 371 (6) The court may award attorney fees and costs and damages
- 372 as provided in s. 57.112.
- 373 Section 6. Subsection (5) of section 163.2517, Florida
- 374 Statutes, is amended to read:
- 375 163.2517 Designation of urban infill and redevelopment
- 376 area.—
- 377 (5) After the preparation of an urban infill and

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378 redevelopment plan or designation of an existing plan, the local
379 government shall adopt the plan by ordinance. Notice for the
380 public hearing on the ordinance must be in the form established
381 in s. 166.041(3)(c)2. for municipalities, and s. 125.66(5)(b)2.
382 ~~s. 125.66(4)(b)2.~~ for counties.

383 Section 7. Paragraph (a) of subsection (3) of section
384 163.3181, Florida Statutes, is amended to read:

385 163.3181 Public participation in the comprehensive planning
386 process; intent; alternative dispute resolution.-

387 (3) A local government considering undertaking a publicly
388 financed capital improvement project may elect to use the
389 procedures set forth in this subsection for the purpose of
390 allowing public participation in the decision and resolution of
391 disputes. For purposes of this subsection, a publicly financed
392 capital improvement project is a physical structure or
393 structures, the funding for construction, operation, and
394 maintenance of which is financed entirely from public funds.

395 (a) Before ~~Prior to~~ the date of a public hearing on the
396 decision on whether to proceed with the proposed project, the
397 local government shall publish public notice of its intent to
398 decide the issue according to the notice procedures described by
399 s. 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ for a county or s.
400 166.041(3)(c)2.b. for a municipality.

401 Section 8. Paragraph (a) of subsection (4) of section
402 163.3215, Florida Statutes, is amended to read:

403 163.3215 Standing to enforce local comprehensive plans
404 through development orders.-

405 (4) If a local government elects to adopt or has adopted an
406 ordinance establishing, at a minimum, the requirements listed in

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407 this subsection, the sole method by which an aggrieved and
408 adversely affected party may challenge any decision of local
409 government granting or denying an application for a development
410 order, as defined in s. 163.3164, which materially alters the
411 use or density or intensity of use on a particular piece of
412 property, on the basis that it is not consistent with the
413 comprehensive plan adopted under this part, is by an appeal
414 filed by a petition for writ of certiorari filed in circuit
415 court no later than 30 days following rendition of a development
416 order or other written decision of the local government, or when
417 all local administrative appeals, if any, are exhausted,
418 whichever occurs later. An action for injunctive or other relief
419 may be joined with the petition for certiorari. Principles of
420 judicial or administrative res judicata and collateral estoppel
421 apply to these proceedings. Minimum components of the local
422 process are as follows:

423 (a) The local process must make provision for notice of an
424 application for a development order that materially alters the
425 use or density or intensity of use on a particular piece of
426 property, including notice by publication or mailed notice
427 consistent with the provisions of ss. 125.66(5)(b)2. and 3. and
428 166.041(3)(c)2.b. and c. ~~ss. 125.66(4)(b)2. and 3. and~~
429 ~~166.041(3)(c)2.b. and c.~~, and must require prominent posting at
430 the job site. The notice must be given within 10 days after the
431 filing of an application for a development order; however,
432 notice under this subsection is not required for an application
433 for a building permit or any other official action of local
434 government which does not materially alter the use or density or
435 intensity of use on a particular piece of property. The notice

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436 must clearly delineate that an aggrieved or adversely affected
437 person has the right to request a quasi-judicial hearing before
438 the local government for which the application is made, must
439 explain the conditions precedent to the appeal of any
440 development order ultimately rendered upon the application, and
441 must specify the location where written procedures can be
442 obtained that describe the process, including how to initiate
443 the quasi-judicial process, the timeframes for initiating the
444 process, and the location of the hearing. The process may
445 include an opportunity for an alternative dispute resolution.

446 Section 9. Paragraph (c) of subsection (1) of section
447 376.80, Florida Statutes, is amended to read:

448 376.80 Brownfield program administration process.—

449 (1) The following general procedures apply to brownfield
450 designations:

451 (c) Except as otherwise provided, the following provisions
452 apply to all proposed brownfield area designations:

453 1. Notification to department following adoption.—A local
454 government with jurisdiction over the brownfield area must
455 notify the department, and, if applicable, the local pollution
456 control program under s. 403.182, of its decision to designate a
457 brownfield area for rehabilitation for the purposes of ss.
458 376.77–376.86. The notification must include a resolution
459 adopted by the local government body. The local government shall
460 notify the department, and, if applicable, the local pollution
461 control program under s. 403.182, of the designation within 30
462 days after adoption of the resolution.

463 2. Resolution adoption.—The brownfield area designation
464 must be carried out by a resolution adopted by the

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465 jurisdictional local government, which includes a map adequate
466 to clearly delineate exactly which parcels are to be included in
467 the brownfield area or alternatively a less-detailed map
468 accompanied by a detailed legal description of the brownfield
469 area. For municipalities, the governing body shall adopt the
470 resolution in accordance with the procedures outlined in s.
471 166.041, except that the procedures for the public hearings on
472 the proposed resolution must be in the form established in s.
473 166.041(3)(c)2. For counties, the governing body shall adopt the
474 resolution in accordance with the procedures outlined in s.
475 125.66, except that the procedures for the public hearings on
476 the proposed resolution must ~~shall~~ be in the form established in
477 s. 125.66(5)(b) ~~s. 125.66(4)(b)~~.

478 3. Right to be removed from proposed brownfield area.—If a
479 property owner within the area proposed for designation by the
480 local government requests in writing to have his or her property
481 removed from the proposed designation, the local government must
482 ~~shall~~ grant the request.

483 4. Notice and public hearing requirements for designation
484 of a proposed brownfield area outside a redevelopment area or by
485 a nongovernmental entity. Compliance with the following
486 provisions is required before designation of a proposed
487 brownfield area under paragraph (2)(a) or paragraph (2)(c):

488 a. At least one of the required public hearings must ~~shall~~
489 be conducted as closely as is reasonably practicable to the area
490 to be designated to provide an opportunity for public input on
491 the size of the area, the objectives for rehabilitation, job
492 opportunities and economic developments anticipated,
493 neighborhood residents' considerations, and other relevant local

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494 concerns.

495 b. Notice of a public hearing must be made in a newspaper
496 of general circulation in the area, must be made in ethnic
497 newspapers or local community bulletins, must be posted in the
498 affected area, and must be announced at a scheduled meeting of
499 the local governing body before the actual public hearing.

500 Section 10. Paragraph (a) of subsection (3) of section
501 497.270, Florida Statutes, is amended to read:

502 497.270 Minimum acreage; sale or disposition of cemetery
503 lands.—

504 (3) (a) If the property to be sold, conveyed, or disposed of
505 under subsection (2) has been or is being used for the permanent
506 interment of human remains, the applicant for approval of such
507 sale, conveyance, or disposition must ~~shall~~ cause to be
508 published, at least once a week for 4 consecutive weeks, a
509 notice meeting the standards of publication set forth in s.
510 125.66(5)(b)2. ~~s. 125.66(4)(b)2.~~ The notice must ~~shall~~ describe
511 the property in question and the proposed noncemetery use and
512 must ~~shall~~ advise substantially affected persons that they may
513 file a written request for a hearing pursuant to chapter 120,
514 within 14 days after the date of last publication of the notice,
515 with the department if they object to granting the applicant's
516 request to sell, convey, or dispose of the subject property for
517 noncemetery uses.

518 Section 11. Paragraph (a) of subsection (2) of section
519 562.45, Florida Statutes, is amended to read:

520 562.45 Penalties for violating Beverage Law; local
521 ordinances; prohibiting regulation of certain activities or
522 business transactions; requiring nondiscriminatory treatment;

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523 providing exceptions.-

524 (2) (a) Nothing contained in the Beverage Law may ~~shall~~ be
525 construed to affect or impair the power or right of any county
526 or incorporated municipality of the state to enact ordinances
527 regulating the hours of business and location of place of
528 business, and prescribing sanitary regulations therefor, of any
529 licensee under the Beverage Law within the county or corporate
530 limits of such municipality. However, except for premises
531 licensed on or before July 1, 1999, and except for locations
532 ~~that are~~ licensed as restaurants, which derive at least 51
533 percent of their gross revenues from the sale of food and
534 nonalcoholic beverages, pursuant to chapter 509, a location for
535 on-premises consumption of alcoholic beverages may not be
536 located within 500 feet of the real property that comprises a
537 public or private elementary school, middle school, or secondary
538 school unless the county or municipality approves the location
539 as promoting the public health, safety, and general welfare of
540 the community under proceedings as provided in s. 125.66(5) ~~s.~~
541 ~~125.66(4)~~, for counties, and s. 166.041(3)(c), for
542 municipalities. This restriction may ~~shall~~ not, however, be
543 construed to prohibit the issuance of temporary permits to
544 certain nonprofit organizations as provided for in s. 561.422.
545 The division may not issue a change in the series of a license
546 or approve a change of a licensee's location unless the licensee
547 provides documentation of proper zoning from the appropriate
548 county or municipal zoning authorities.

549 Section 12. Subsection (1) of section 847.0134, Florida
550 Statutes, is amended to read:

551 847.0134 Prohibition of adult entertainment establishment

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552 that displays, sells, or distributes materials harmful to minors
553 within 2,500 feet of a school.—

554 (1) Except for those establishments that are legally
555 operating or have been granted a permit from a local government
556 to operate as adult entertainment establishments on or before
557 July 1, 2001, an adult entertainment establishment that sells,
558 rents, loans, distributes, transmits, shows, or exhibits any
559 obscene material, as described in s. 847.0133, or presents live
560 entertainment or a motion picture, slide, or other exhibit that,
561 in whole or in part, depicts nudity, sexual conduct, sexual
562 excitement, sexual battery, sexual bestiality, or
563 sadomasochistic abuse and that is harmful to minors, as
564 described in s. 847.001, may not be located within 2,500 feet of
565 the real property that comprises a public or private elementary
566 school, middle school, or secondary school unless the county or
567 municipality approves the location under proceedings as provided
568 in s. 125.66(5) ~~s. 125.66(4)~~ for counties or s. 166.041(3)(c)
569 for municipalities.

570 Section 13. The Legislature finds and declares that this
571 act fulfills an important state interest.

572 Section 14. This act shall take effect October 1, 2023.