The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1080
INTRODUCER:	Rules Committee and Senator McClain
SUBJECT:	Local Government Land Regulation
DATE:	April 18, 2025
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	**Favorable**
2.	Collazo	Cibula	JU	**Favorable**
3.	Hackett	Yeatman	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1080 amends certain statutes regulating the review and approval of development permit and order applications by local governments.

Specifically, the bill requires local governments to:

- Specify the minimum information required for certain zoning applications.
- Process an application for a development permit or order within certain timeframes.
- Not limit the number of quasi-judicial hearings or public hearings held each month, if limiting their number will cause a delay in the consideration of an application for a development permit or order.
- Issue refunds to applicants if they fail to meet certain timeframes when processing an application.

The bill also provides that comprehensive plan amendments are not required to be approved at the second public hearing in the plan amendment adoption process to avoid being deemed withdrawn.

Additionally, the bill provides a substantially new mechanism for the administrative approval of development on agricultural enclaves, and provides limitations on extraordinary increases to impact fees.

The bill takes effect October 1, 2025.

II. Present Situation:

The Community Planning Act

Adopted in 1985, the Local Government Comprehensive Planning and Land Development Regulation Act,[1] also known as Florida's Growth Management Act, was significantly revised in 2011, becoming the Community Planning Act.[2] The Community Planning Act governs how local governments create and adopt their local comprehensive plans.

Local comprehensive plans must include principles, guidelines, standards, and strategies for the orderly and balanced future land development of the area and reflect community commitments to implement the plan. The Community Planning Act intends that local governments manage growth through comprehensive land use plans that facilitate adequate and efficient provision of transportation, water, sewage, schools, parks, recreational facilities, housing, and other requirements and services.[3] A housing element is required as part of every comprehensive plan in the state. Among other things, the housing element must address "the creation or preservation of affordable housing to minimize the need for additional local services and avoid the concentration of affordable housing units only in specific areas of the jurisdiction."[4]

Municipalities established after the effective date of the Community Planning Act must adopt a comprehensive plan within 3 years after the date of incorporation.[5] The county comprehensive plan controls until a municipal comprehensive plan is adopted.[6]

The comprehensive plan is implemented via land development regulations. Each county and municipality must adopt and enforce land development regulations, such as zoning or other housing-related ordinances, which are consistent with and implement their adopted comprehensive plan.[7]

Comprehensive Plan Amendments

If a proposed development does not conform to the comprehensive plan, the local government must first amend the comprehensive plan to facilitate the nonconforming development. State law requires a proposed comprehensive plan amendment to receive two public hearings, the first held by the local planning board, and subsequently by the governing board.[8]

Any affected person may challenge whether a plan or plan amendment complies with the Act by petitioning the Division of Administrative Hearings (DOAH) for a formal hearing.[9] An

[1] *See* ch. 85-55, s. 1, Laws of Fla. (codifying s. 163.3161(1), F.S. (1985), which provided the original short title).
[2] *See* ch. 2011-139, s. 4, Laws of Fla. (revising the short title in s. 163.3161(1), F.S., to "Community Planning Act").
[3] Section 163.3161(4), F.S.
[4] Section 163.3177(6)(f)1.g., F.S.
[5] Section 163.3167(3), F.S.
[6] *Id*.
[7] Section 163.3202, F.S.
[8] Sections 163.3174(4)(a) and 163.3184, F.S.
[9] Section 163.3184(5)(a), F.S.

administrative law judge must hold a hearing in the affected local jurisdiction on whether the plan or plan amendment is in compliance.[10] In challenges filed by an affected person, the comprehensive plan or plan amendment must be determined to be in compliance if the local government's determination of compliance is fairly debatable. If the administrative law judge recommends that the amendment be found in compliance, the judge must submit the recommended order to the state land planning agency for a final order in its favor.[11]

Agricultural Enclaves

An agricultural enclave is an unincorporated, undeveloped parcel that:

- Is owned by a single person or entity;
- Has been in continuous use for bona fide agricultural purposes for 5 years prior to the date of any comprehensive plan amendment application;
- Is surrounded on at least 75 percent of its perimeter by existing industrial, commercial, or residential development; or property designated in the local government's comprehensive plan and land development regulations for future industrial, commercial, or residential development, and 75 percent of which currently contains such development;
- Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled in the capital improvement element to be provided by the local government or can be provided by an alternative provider of local government infrastructure; and
- Does not exceed 1,280 acres, or 4,480 acres if the property is surrounded by existing or authorized residential development with a density buildout of at least 1,000 residents per square mile.[12]

The owner of an agricultural enclave may apply for an amendment to the local government comprehensive plan. Such amendment is presumed not to be urban sprawl[13] if it includes land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. [14]

The local government and the owner of a parcel of land that is the subject of an application for an amendment shall have 180 days following the date that the local government receives a complete application to negotiate in good faith to reach consensus on the land uses and intensities of use that are consistent with the uses and intensities of use of the industrial, commercial, or residential areas that surround the parcel. Within 30 days after the local government's receipt of such an application, the local government and owner must agree in writing to a schedule for information submittal, public hearings, negotiations, and final action on the amendment, which schedule may thereafter be altered only with the written consent of the local government and the owner. Regardless of whether the local government and owner reach consensus on the land uses and intensities of use that are consistent with the uses and intensities

[10] Section 163.3184(5)(c), F.S.
[11] Section 163.3184(5)(e), F.S.
[12] Section 163.3164(4), F.S.
[13] "Urban sprawl" means a development pattern characterized by low density, automobile-dependent development with either a single use or multiple uses that are not functionally related, requiring the extension of public facilities and services in an inefficient manner, and failing to provide a clear separation between urban and rural uses. S. 163.3164, F.S.
[14] Section 163.3162(5), F.S.

of use of the industrial, commercial, or residential areas that surround the parcel, the amendment must be transmitted to the state land planning agency for review.[15]

The agricultural enclave provisions do not preempt or replace any protection currently existing for property located within the boundaries of the Wekiva Study Area, as described in s. 369.316, F.S., or to the Everglades Protection Area, as defined in s. 373.4592.[16]

Local Government Impact Fees

In Florida, impact fees are imposed pursuant to local legislation and are generally charged as a condition for the issuance of a project's building permit. The principle behind the imposition of impact fees is to transfer to new users of a government-owned system a fair share of the costs the new use of the system involves.[17] Impact fees have become an accepted method of paying for public improvements that must be constructed to serve new growth.[18] In order for an impact fee to be a constitutional user fee and not an unconstitutional tax, the fee must meet a dual rational nexus test, in that the local government must demonstrate the impact fee is proportional and reasonably connected to, or has a rational nexus with:

- The need for additional capital facilities and the increased impact generated by the new residential or commercial construction; and
- The expenditure of the funds collected and the benefits accruing to the new residential or nonresidential construction.[19]

Impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and the local government's determination to charge the full cost or only part of the cost of the infrastructure improvement through utilization of the impact fee.

Impact Fee Increases

Section 163.31801(6), F.S., provides limitations on impact fee increases imposed by a local government, school district, or special district. An impact fee may increase only pursuant to a plan for the imposition, collection, and use of the increased impact fees as follows:

- An impact fee increase of not more than 25 percent of the current rate must be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.
- If the increase in rate is between 25 and 50 percent of the current rate, the increase must be implemented in four equal annual installments.
- No impact fee increase may exceed 50 percent of the current impact fee rate.
- An impact fee may not be increased more than once every four years.
- An impact fee may not be increased retroactively for a previous or current fiscal or calendar year.

[15] *Id.*
[16] Section 163.3162(4)(d), F.S.
[17] *Contractors & Builders Ass'n of Pinellas County v. City of Dunedin*, 329 So. 2d 314, 317-318 (Fla. 1976).
[18] *St. Johns County v. Ne. Florida Builders Ass'n, Inc.*, 583 So. 2d 635, 638 (Fla. 1991); s. 163.31801(2), F.S.
[19] *See St. Johns County* at 637. Codified at s. 163.31801(3)(f) and (g), F.S.

A local government, school district, or special district may increase an impact fee rate beyond these phase-in limitations if a local government, school district, or special district:

- Completes, within the 12-month period before the adoption of the impact fee increase, a demonstrated-need study justifying the increase and expressly demonstrating the *extraordinary circumstances* necessitating the need to exceed the limitations;
- Holds at least two publicly noticed workshops dedicated to the extraordinary circumstances necessitating the need to exceed the limitations; and
- Approves the impact fee increase ordinance by at least a two-thirds vote of the governing body.

Issuing Development Orders and Permits

Under the Community Planning Act, a development permit is any official action of a local government that has the effect of permitting the development of land including, but not limited to, building permits, zoning permits, subdivision approval, rezoning, certifications, special exceptions, and variances.[20] A development order is issued by a local government and grants, denies, or grants with conditions an application for a development permit.[21]

Within 30 days after receiving an application for approval of a development permit or development order, a county or municipality must review the application for completeness and issue a letter indicating that all required information is submitted or specify any areas that are deficient. If the application is deficient, the applicant has 30 days to address the deficiencies by submitting the required additional information.[22]

Within 120 days after the county or municipality has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, the county or municipality must approve, approve with conditions, or deny the application for a development permit or development order.[23] Both the applicant and the local government may agree to a reasonable request for an extension of time, particularly in the event of an extraordinary circumstance.[24] An approval, approval with conditions, or denial of the application for a development permit or development order must include written findings supporting the county's or the municipality's decision.[25] However, these timeframes do not apply in areas of critical state concern.[26]

When reviewing a certified application for a development permit or development order, not including building permit applications, a county or municipality may not request additional

[20] Section 163.3164(16), F.S.
[21] *See* s. 163.3164(15), F.S. (defining development order); *see also* s. 125.022 and 166.033, F.S. (regulating county and municipal development permits and orders, respectively).
[22] Sections 125.022(1) and 166.033(1), F.S.
[23] *Id.*
[24] *Id.*
[25] *Id.*
[26] *Id.*

information from the applicant more than 3 times, unless the applicant waives the limitation in writing.[27]

If a county or municipality makes a request for additional information from the applicant, and the applicant provides the information within 30 days after receiving the request, the county or the municipality must:

- Review the additional information and issue a letter to the applicant indicating that the application is complete, or specify the remaining deficiencies within 30 days after receiving the information, if the request is the county or municipality's first request.[28]
- Review the additional information and issue a letter to the applicant indicating that the application is complete, or specify the remaining deficiencies within 10 days after receiving the additional information, if the request is the county or municipality's second request.[29]
- Deem the application complete within 10 days after receiving the additional information, or proceed to process the application for approval or denial unless the applicant waived the county or municipality's time limitations in writing, if the request is the county or municipality's third request.[30]

Before a third request for information, the applicant must be offered a meeting to attempt to resolve outstanding issues.[31] If the applicant believes the request for additional information is not authorized by ordinance, rule, statute, or other legal authority, the applicant may require the county or municipality proceed to process the application for approval or denial.[32] If denied, the county or municipality is required to give written notice to the applicant and must provide reference to the applicable legal authority for the denial of the permit.[33]

Once an application is deemed complete, a county or municipality must approve, approve with conditions, or deny the application within 120 days after it is deemed complete, or 180 days after it is deemed complete for applications that require final action through a quasi-judicial hearing or a public hearing.[34]

III. Effect of Proposed Changes:

Agricultural Enclaves

Section 2 amends s. 163.3162, F.S., to provide a substantially new public hearing process for agricultural enclaves. Under the bill, the owner of an agricultural enclave may apply for certification of land as an agricultural enclave, subject to public hearing and approval. Upon certification, property owners may submit development plans for single-family residential housing consistent with land use requirements of adjacent parcels.

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[27] Sections 125.022(2) and 166.033(2), F.S.; *see also* s. 403.0877, F.S. (listing the professionals that may certify applications for development permits and development orders for the purpose of satisfying this requirement).
[28] Section 125.022(2)(b) and Section 166.033(2)(b), F.S.
[29] Section 125.022(2)(c) and Section 166.033(2)(c), F.S.
[30] Section 125.022(2)(d) and Section 166.033(2)(d), F.S.
[31] *Id.*
[32] Section 125.022(2)(e) and Section 166.033(2)(e), F.S.
[33] *Id.*
[34] Section 125.022(1) and Section 166.033(1), F.S.

Within 30 business days after the local government's receipt of such development plans, the local government and the owner of the parcel certified as an agricultural enclave must agree in writing to a process and schedule for information submittal, analysis, and final approval, which may be administrative in nature, of the development plans. The local government may not require the owner to agree to a process that is longer than 180 days in duration or that includes further review of the plans in a quasi-judicial process or public hearing.

A local government may not enact or enforce a law or regulation for an agricultural enclave which is more burdensome than for other types of applications for comparable uses or densities, and must treat an agricultural enclave that is adjacent to an urban service district as if it is within the urban service district.

Agricultural enclave development concepts do not replace or override protections related to military installations. The bill otherwise removes the existing process related to agricultural enclaves.

Section 3 amends s. 163.3164(4), F.S., the definition of "agricultural enclave." The bill expands the definition to include that an agricultural enclave may include multiple parcels. The bill also provides that, as an alternative to the requirement that an enclave be 75 percent surrounded by existing development or planned development, a parcel or set of parcels of less than 700 acres 50 percent surrounded by planned development and sharing 50 percent of its perimeter with an urban service district, area, or line; or a parcel or set of parcels located within the boundary of an established rural study area adopted in the local government's comprehensive plan which was intended to be developed with residential uses and is surrounded on at least 50 percent of its perimeter by a parcel or parcels that the local government has designated on the local government's future land use plan as land that can be developed for industrial, commercial, or residential purposes. satisfies the requirement to be considered an enclave.

Section 4 provides that the bill's provisions relating to agricultural enclaves shall expire January 1, 2027, and the text of those subsections shall revert to that in existence on September 30, 2025, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to the extent that such amendments are not dependent upon the portions of text which expire pursuant to this section.

Impact Fees

Section 5 amends s. 163.3180, F.S., to provide that a school district may not collect, charge, or impose any alternative fee in lieu of an impact fee to mitigate the impact of development on educational facilities unless such fee meets the dual rational nexus test imposed on all impact fees. In any action challenging a fee for such a reason, the school district has the burden of proving by a preponderance of the evidence that the imposition and amount of the fee meet the requirements of state legal precedent.

Section 6 amends s. 163.31801, F.S., to provide that an impact fee increase beyond the statutory four-year glidepath under the auspices of "extraordinary circumstances" requires a unanimous, rather than two-thirds' vote, and must be implemented in at least two but not more than four equal annual increments. A local government may not increase impact fees using "extraordinary

circumstances" methodology if they have not increased the impact fee within the past 7 years, excluding years in which increases were prohibited due to hurricane disaster regulations.

Sections 1 and 8 amend ss. 125.022 and 166.033, F.S., to revise a variety of provisions related to county and municipality operations in connection with development permits and orders. The amendments are listed by specific subject below.

Minimum Information for Certain Zoning Applications

The bill requires local governments to specify in writing the minimum information that must be submitted in an application for a zoning approval, rezoning approval, subdivision approval, certification, special exception, or variance. Under the bill, the local government must:

- Make the minimum information available for inspection and copying at the location where the local government receives applications for development permits and orders;
- Provide the minimum information to the applicant at a preapplication meeting; or
- Post the minimum information on the local government's website.

Timeframes for Processing an Application

Within 5 business days after receiving an application for approval of a development permit or development order, local governments must confirm receipt of the application using the contact information provided by the applicant.

The bill clarifies that, within 30 days after receiving an application for approval of a development permit or order, a local government must review the application for completeness and either:

- Issue a written notification to the applicant indicating that all required information is submitted; or
- Specify, with particularity and in writing, any areas that are deficient.

For an application for a development permit or order that ***does not*** require final action through a quasi-judicial hearing or public hearing, the bill requires local governments to approve the application, approve the application with conditions, or deny the application within ***120 days*** after the local government has deemed the application complete.

For an application for a development permit or order that ***does*** require final action through a quasi-judicial hearing or public hearing, the bill requires local governments to approve the application, approve the application with conditions, or deny the application within ***180 days*** after the local government has deemed the application complete.

The bill prohibits local governments from limiting the number of quasi-judicial hearings or public hearings held each month if such limitation causes any delay in the consideration of an application for approval of a development permit or order.

Additionally, the bill clarifies that local governments and applicants may agree in writing to an extension of time for processing an application, particularly in the event of a force majeure or other extraordinary circumstance.

The bill provides that the foregoing timeframes restart if an applicant makes a substantive change to the application. The bill defines "substantive change" as an applicant-initiated change of 15 percent or more in the proposed density, intensity, or square footage of a parcel.

Requirement to Issue a Refund

The bill requires local governments to issue a refund to an applicant equal to:

- Ten percent of the application fee if the local government fails to issue written notification of completeness or written specification of areas of deficiency within 30 days after receiving the application.
- Ten percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 30 days after receiving the additional information pursuant to an initial request by the local government to furnish such additional information.
- Twenty percent of the application fee if the local government fails to issue a written notification of completeness or written specification of areas of deficiency within 10 days after receiving the additional information pursuant to a second request by the local government to furnish such additional information.
- Fifty percent of the application fee if the local government fails to approve, approve with conditions, or deny the application within 30 days after conclusion of the 120-day or 180-day timeframe specified above.
- One hundred percent of the application fee if the local government fails to approve, approve with conditions, or deny an application 31 days or more after conclusion of the 120-day or 180-day timeframe specified above.

A local government is not required to issue a refund in any of the foregoing scenarios if:

- The applicant and the local government agree to an extension of time;
- The delay is caused by the applicant; or
- The delay is attributable to a force majeure or other extraordinary circumstances.

Section 7 amends s. 163.3184, F.S., to provide that comprehensive plan amendments are not required to be approved at the second public hearing in the plan amendment adoption process to avoid being deemed withdrawn.

Section 9 provides that the bill takes effect October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate positive fiscal impact to the extent applicants receive refunds from counties and municipalities that fail to meet statutory deadlines relating to development permits and orders.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on local governments to the extent those governments must issue refunds for failing to meet statutory deadlines relating to development permits and orders.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.022, 163.3164, 163.3180, 163.3184, and 166.033.

The bill creates an undesignated section of Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Rules on April 16, 2025:
With respect to s. 163.3162(4), F.S., which regulates comprehensive plan amendments related to agricultural enclaves, the CS allows property owners to apply for recognition of land as an agricultural enclave. Upon recognition, property owners may submit development plans for single-family residential housing consistent with land use requirements of adjacent parcels. The CS also revises the definition of agricultural enclaves, prevents the section from replacing protections related to military installations, and provides for the amendments to expire in 2027.

The CS also provides that school district impact fees must meet the dual rational nexus test, and that the school district bears the burden of proving so in any action brought against the validity of such impact fees.

The CS also provides that impact fee increases beyond the 12.5% phase in due to extraordinary circumstances must be approved by unanimous vote, must be implemented in at least two annual increments, and may not be undertaken if the local government failed to increase impact fees within the previous 7 years.

B. Amendments:

None.