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 Community Affairs

BILL:	SB 1434
INTRODUCER:	Senator Calatayud
SUBJECT:	Infill Redevelopment
DATE:	January 26, 2026
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hackett	Fleming	CA	**Favorable**
2.			JU	
3.			RC	

I. Summary:

SB 1434 creates the "Infill Redevelopment Act," which preempts certain local land development regulations and oversight for certain qualifying parcels. Qualifying parcels are plots of at least 5 acres in certain counties which are environmentally impacted, such as with a brownfield designation or within a dry cleaner site cleanup program.

A local government must permit by administrative approval a qualifying parcel to be developed up to the regulations of an adjacent zoning district within the same jurisdiction which permits residential uses, or if the parcel is not adjacent to such a district, the local government must approve single-family homes or townhomes with specified minimum densities and non-restrictive standards.

The bill provides requirements for a qualifying parcel which includes recreational facilities, such as a golf course, or areas reserved for recreational use adjacent to single family homes on all sides, and provides a framework for the sale of such property for continued recreational use.

The bill applies retroactively to any local law, ordinance, or regulation contrary, and provides express preemption against local law applying a more restrictive or burdensome requirement or procedure to the development of a qualifying parcel.

The bill takes effect upon becoming a law.

II. Present Situation:

Growth Management and Comprehensive Planning

The Community Planning Act directs counties and municipalities to plan for future development by adopting comprehensive plans.[1] Each local government must maintain a comprehensive plan to guide future development.[2]

All development, both public and private, and all development orders approved by local governments must be consistent with the local government's comprehensive plan.[3] A comprehensive plan is intended to provide for the future use of land, which contemplates gradual and ordered growth, and establishes a long-range maximum limit on the possible intensity of land use.

Comprehensive plans lay out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. They are made up of 10 required elements, each laying out regulations for different facets of development.[4]

The 10 required elements consider and address capital improvements; future land uses; transportation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing; coastal management; intergovernmental coordination; and property rights. Other plans and programs may be added as optional elements to a comprehensive plan.[5]

The Future Land Use Element

Comprehensive plans must include an element regarding future land use that designates the proposed future general distribution, location, and extent of the uses of land for a number of uses and categories of public and private uses of land.[6] Each future land use category must be defined in terms of uses included, and must include standards to be followed in the control and distribution of population densities and building and structure intensities.[7] The proposed distribution, location, and extent of the various categories of land use must be shown on a land use map or map series. Future land use plans and plan amendments are based on surveys, studies, and data regarding the area.[8]

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[1] Section 163.3167(1), F.S.
[2] Section 163.3167(2), F.S.
[3] Section 163.3194(3), F.S
[4] Section 163.3177(3) and (6), F.S.
[5] *Id*.
[6] Section 163.3177(6)(a), F.S. Applicable uses and categories of public and private uses of land include, but are not limited to, residential, commercial, industrial, agricultural, recreational, conservation, educational, and public facilities. Section 163.3177(6)(a)10., F.S.
[7] Section 163.3177(6)(a)1., F.S.
[8] Section 163.3177(6)(a)2., F.S.

A comprehensive plan's future land use element establishes a range of allowable uses and densities and intensities over large areas, and the specific use and intensities for specific parcels within that range are decided by a more detailed, implementing zoning map.[9]

Infill Development

The Growth Policy Act,[10] establishes a framework for urban infill and redevelopment for promoting and sustaining urban cores. The act defines "urban infill and redevelopment area" as an area:

- Where basic public services (water, sewer, transportation, schools) are already available or planned;
- That suffers from poverty, distress, or blight;
- That contains a high proportion of substandard, vacant, or obsolete properties; and
- That is near transit stops and adjacent to redevelopment, enterprise, or similar designated areas.[11]

The act authorizes local governments to designate urban infill and redevelopment areas based on specified criteria by adopting a comprehensive, community-based redevelopment plan.[12] The plan must address land use, housing (including affordable housing), transportation, infrastructure, public safety, and economic development, and must be developed through a collaborative process involving residents, businesses, and other stakeholders. Once designated, urban infill and redevelopment areas may utilize tax increment financing, revenue bonds, and state and federal funding mechanisms to support redevelopment activities.[13]

Land Development Regulations

Comprehensive plans are implemented via land development regulations. Land development regulations are ordinances enacted by governing bodies for the regulation of any aspect of development and include any local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of land.[14]

Each county and municipality must adopt and enforce land development regulations that are consistent with and implement their adopted comprehensive plan.[15] Local governments are encouraged to use innovative land development regulations[16] and may adopt measures for the purpose of increasing affordable housing using land use mechanisms.[17] Land development regulations relating to all public and private development, including special district projects, must be consistent with the local comprehensive plan.[18]

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[9] Richard Grosso, *A Guide to Development Order "Consistency" Challenges Under Florida Statutes Section 163.3215,* 34 J. ENVTL. L. & LITIG. 129, 154 (2019) (citing *Brevard Cty. v. Snyder,* 627 So. 2d 469, 475 (Fla. 1993)).
[10] Sections 163.2511-163.2520, F.S.
[11] Section 163.2514, F.S.
[12] Section 163.2517, F.S.
[13] Section 163.2520, F.S.
[14] Section 163.3164(26), F.S.
[15] Section 163.3202(1), F.S.
[16] Section 163.3202(3), F.S.
[17] Sections 125.01055 and 166.04151, F.S.
[18] *See* ss. 163.3161(6) and 163.3194(1)(a), F.S.

Classification of Agricultural Lands

Section 193.461(1), F.S., requires state property appraisers to classify for ad valorem tax assessment purposes all lands within their counties as agricultural or nonagricultural.[19] Only lands that are used primarily for bona fide agricultural purposes may be classified agricultural.[20]

The term "bona fide agricultural purposes" means good faith commercial agricultural use of the land.[21] The term "agricultural purposes" includes, but is not limited to, horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, if the land is used principally for the production of tropical fish; aquaculture as defined in state law; algaculture; sod farming; and all forms of farm products as defined in state law; and farm production.[22]

Home Rule Authority

The Florida Constitution grants local governments broad home rule authority. Non-charter county governments may exercise those powers of self-government that are provided by general or special law.[23] Counties operating under a county charter have all powers of self-government not inconsistent with general law or special law approved by the vote of the electors.[24] Municipalities have governmental, corporate, and proprietary powers that enable them to conduct municipal government, perform municipal functions and provide municipal services, and exercise any power for municipal purposes except when expressly prohibited by law.[25]

Preemption

Preemption refers to the principle that a federal or state statute can supersede or supplant state or local law that stands as an obstacle to accomplishing the full purposes and objectives of the overriding federal or state law.[26]

Where state preemption applies, a local government may not exercise authority in that area.[27] Whether a local government ordinance or other measure violates preemption is ultimately decided by a court. If a local government improperly enacts an ordinance or other measure on a matter preempted to the state, a person may challenge the ordinance by filing a lawsuit. A court ruling against the local government may declare the preempted ordinance void.[28]

[19] Section 193.461(2), F.S.
[20] Section 193.461(3)(b), F.S.
[21] *Id.*
[22] Section 193.461(5), F.S.
[23] Article. VIII, s. 1(f), FLA CONST.
[24] Article. VIII, s. 1(g), FLA CONST.
[25] Art. VIII, s. 2(b), FLA CONST.; *see also* s. 166.021(1), F.S.
[26] Preemption definition, Black's Law Dictionary (12th ed. 2024).
[27] *D'Agastino v. City of Miami*, 220 So. 3d 410 (Fla. 2017); Judge James R. Wolf and Sarah Harley Bolinder, *The Effectiveness of Home Rule: A Preemptions and Conflict Analysis*, 83 Fla. B.J. 92 (June 2009).
[28] *See, e.g.*, *Nat'l Rifle Ass'n of Am., Inc. v. City of S. Miami*, 812 So. 2d 504 (Fla. 3d DCA 2002).

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

The CERCLA[29] is commonly known as the Superfund.[30] Thousands of contaminated sites exist nationally due to hazardous waste being dumped, left out in the open, or otherwise improperly managed.[31] These sites include manufacturing facilities, processing plants, landfills, and mining sites.[32]

The CERCLA created a tax on the chemical and petroleum industries and required that the money collected be used to clean up hazardous waste sites throughout the country. The Superfund allows the U.S. Environmental Protection Agency (EPA) to clean up contaminated sites.[33] It also forces the parties responsible for the contamination to either perform cleanups or reimburse the government for EPA-led cleanup work.
Beginning the process is a determination of whether the site requires cleanup before reuse. A series of tests and investigations are utilized to determine whether a site has a "recognized environmental condition," defined as:

- The presence of hazardous substances or petroleum products in, on, or at the subject property due to a release to the environment;
- The likely presence of hazardous substances or petroleum products in, on, or at the subject property due to a release or likely release to the environment; or
- The presence of hazardous substances or petroleum products in, on, or at the subject property under conditions that pose a material threat of a future release to the environment.[34]

Title 40, Part 312 of the Code of Federal Regulations provides that environmental condition investigations must be documented in a written report prepared by an environmental professional.[35] These reports often take the form of a Phase I Environmental Site Assessment.[36] A Phase I Environmental Site Assessment uses existing information to help understand the property conditions by examining current and historical uses of the site and potential threats to human health or the environment. When a potential owner conducts an investigation in compliance with Title 40, Part 312 of the Code of Federal Regulations, he or she may have a defense to liability if contamination is later discovered.[37]

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[29] 42 U.S.C. ss. 9601 et seq.
[30] EPA, *Superfund: CERCLA Overview,* available at https://www.epa.gov/superfund/superfund-cercla-overview (last visited Jan. 26, 2026).
[31] *Id.*
[32] *Id.*
[33] EPA, *What is Superfund?,* https://www.epa.gov/superfund/what-superfund (last visited Jan. 26, 2026).
[34] Partner Engineering and Science, *Recognized Environmental Condition (REC)*, available at https://www.partneresi.com/resources/glossary/recognized-environmental-condition-rec/ (last visited Jan. 26, 2026).
[35] EPA, *All Appropriate Inquiries Rule: Reporting Requirements and Suggestions on Report Content, available at* https://nepis.epa.gov/Exe/tiff2png.cgi/P1005DOV.PNG?-r+75+-g+7+D%3A%5CZYFILES%5CINDEX%20DATA%5C06THRU10%5CTIFF%5C00000562%5CP1005DOV.TIF (last visited Jan. 26, 2026).
[36] *See* EPA, Assessing Brownfield Sites, available at https://www.epa.gov/sites/default/files/2020-07/documents/assessing_brownfield_sites.pdf (last visited Jan. 26, 2026) (explaining that performing a Phase I Environmental Site Assessment pursuant to ASTM International Standards E1527-13 prior to owning a property is often equivalent to conducting all appropriate inquiries).
[37] *Id.*

Brownfields Program Overview

Many areas in Florida contain sites with actual or perceived environmental contamination that may present a significant barrier to redevelopment.[38] The Florida Brownfields Redevelopment Act was adopted by the Florida Legislature in 1997, to provide incentives for local governments and individuals to voluntarily clean up and redevelop brownfield sites.[39] Participation in the program results in environmental cleanup, protection of public health, reuse of infrastructure, economic redevelopment and job creation.[40]

Local governments support the use of the tools and incentives provided by the program by designating brownfield areas for cleanup and revitalization.[41] A brownfield area designation can also be proposed by other persons, including, but not limited to, individuals, corporations, partnerships, limited liability companies, community-based organizations, and not-for-profit corporations.[42]

Upon designation, properties within a brownfield area have met the first requirement for participation in the program.[43] These properties may participate in economic incentives that are linked to a brownfield site rehabilitation agreement (BSRA), including the job bonus tax refund or refunds on sales and use tax paid on the purchase of building materials used in a mixed-use project or housing project. If contamination is known or suspected, the local government may designate an area and identify the person responsible for brownfield site rehabilitation. This entitles the identified person to negotiate a BSRA with the Department of Environmental Protection (DEP).[44]

III. Effect of Proposed Changes:

The bill creates s. 163.2525, F.S., the "Infill Redevelopment Act," which preempts certain local land development regulations and oversight for certain qualifying parcels. Qualifying parcels are those which:

- Consist of at least 5 acres;
- Are within a county with a population of more than 1.475 million and 10 municipalities;[45] and
- Are "environmentally impacted," meaning any portion of the parcel:

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[38] Florida Dep't of Environmental Protection (DEP), *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24*, 4 (2024), *available at* https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf. (last visited Jan. 26, 2026).
[39] Chapter 97-277, s. 1, Laws of Fla.; ss. 376.77-376.86, F.S.
[40] The DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24 at* 4.
[41] The DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 5, *available at* https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf. (last visited Jan. 26, 2026).
[42] Section 376.80(1)(b)2. and (2)(c), F.S.
[43] The DEP, *Florida Brownfields Redevelopment Program Annual Report: FY 2023-24* at 5, *available at* https://floridadep.gov/sites/default/files/2024%20Brownfields%20Program%20Legislative%20Report%208.1.2024.pdf. (last visited Jan. 26, 2026).
[44] *Id.*
[45] As of January 2026, this includes Miami-Dade, Broward, Palm Beach, and Orange Counties.

- Contains a recognized environmental condition based on an assessment by a qualified environmental professional or an assessment prepared for compliance with certain legal defenses under CERCLA;
- Is the subject of environmental assessment, investigation, cleanup, or site rehabilitation under state or local law, including brownfield, petroleum, or dry cleaner site cleanup programs; or
- Is located in a brownfield area designated pursuant to s. 376.80, F.S.

Parcels are not eligible if they are:
- Designated agricultural land;
- Owned or operated by a local government for public park purposes;
- Are outside an urban growth boundary; or
- Are within one-quarter mile of a military installation.

A local government must permit by administrative approval a qualifying parcel to be developed up to the highest density and intensity allowed in any adjacent zoning district within the same jurisdiction which permits residential uses as of right. If the qualifying parcel lacks such adjacency, the local government must permit development with single-family homes or townhouses without restricting:
- Density beyond 30 units per acre;
- Height below 40 feet
- Lot sizes beyond 1,250 square feet;
- Front and rear setbacks beyond 10 feet; or
- Parking beyond one space per dwelling.

A local government must also approve an application for the subdivision of a qualifying parcel, following the same restrictions. If a qualifying parcel is adjacent to single-family homes or townhouses on all sides, the developer must provide a buffer of at least 30 feet.

The bill provides requirements for a qualifying parcel which includes recreational facilities or areas reserved for recreational use adjacent to single family homes on all sides. The developer must:
- Establish that such facilities have not been in operation or use for a period of one year;
- Pay double the applicable parks or recreational facilities impact fee; and
- Provide written notice by certified mail to adjacent property owners of the intent to develop, providing the option to purchase the property for continued recreational use.

The bill provides a framework for the election of that option, requiring a deed restriction placed on the property for continued recreational use.

The bill applies retroactively to any local law, ordinance, or regulation contrary, and provides express preemption against local law applying a more restrictive or burdensome requirement or procedure to the development of a qualifying parcel.

The bill takes effect upon becoming a law.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Retroactive Application

Absent an express statement of legislative intent, a statute is presumed to operate only prospectively, not retroactively.[46] While the Legislature may pass a non-criminal law and expressly manifest its intent that it be applied retroactively, the law may still be held unconstitutional if its retroactive application impermissibly burdens existing constitutional

[46] *Fla. Ins. Guar. Ass'n., Inc. v. Devon Neighborhood Ass'n. Inc.*, 67 So.3d 187, 194-95 (Fla. 2011).

rights.[47] The bill applies to retroactively preempt all local regulation on certain eligible parcels. This may have the effect of nullifying existing growth management regulations.

VIII. Statutes Affected:

This bill creates section 163.2525 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

[47] *See Menendez v. Progressive Exp. Ins. Co., Inc.*, 35 So. 3d 873, 877 (Fla. 2010) ("[E]ven where the Legislature has expressly stated that a statute will have retroactive application, this Court will reject such an application if the statute impairs a vested right, creates a new obligation, or imposes a new penalty.").