

1 A bill to be entitled
2 An act relating to growth management; amending s.
3 57.112, F.S.; deleting a provision that prohibits
4 specified attorney fees and costs from applying to
5 local ordinances adopted pursuant to the growth policy
6 act; amending s. 163.3167, F.S.; specifying
7 requirements for certain comprehensive plans effective
8 after a specified date and for associated land
9 development regulations; amending s. 163.3168, F.S.;
10 requiring the Department of Economic Opportunity to
11 give a preference to certain counties and
12 municipalities when selecting applications for funding
13 for technical assistance; amending s. 163.3177, F.S.;
14 requiring the comprehensive plan to include a property
15 rights element; providing a statement of rights that a
16 local government may use; requiring local government
17 to adopt a property rights element by a specified
18 date; providing that a local government's property
19 rights element may not conflict with the statutorily
20 provided statement of rights; amending s. 163.3237,
21 F.S.; providing that certain property owners are not
22 required to consent to development agreement changes
23 under certain circumstances; amending s. 171.042,
24 F.S.; prohibiting a municipality from annexing
25 specified areas under certain circumstances; amending

26 s. 180.02, F.S.; providing conditions under which a
 27 municipality may exercise certain powers to provide
 28 water and sewer services within the unincorporated
 29 area of a county; amending s. 337.401, F.S.; providing
 30 a timeframe for processing permit applications for use
 31 by right-of-way by utilities; amending s. 380.06,
 32 F.S.; authorizing certain developments of regional
 33 impact agreements to be amended under certain
 34 circumstances; providing an effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. Subsection (5) of section 57.112, Florida
 39 Statutes, is amended to read:

40 57.112 Attorney fees and costs and damages; preempted
 41 local actions.—

42 (5) This section does not apply to local ordinances
 43 adopted pursuant to ~~part II of chapter 163,~~ s. 553.73~~7~~ or s.
 44 633.202.

45 Section 2. Subsection (3) of section 163.3167, Florida
 46 Statutes, is amended to read:

47 163.3167 Scope of act.—

48 (3) A municipality established after the effective date of
 49 this act shall, within 1 year after incorporation, establish a
 50 local planning agency, pursuant to s. 163.3174, and prepare and

51 | adopt a comprehensive plan of the type and in the manner set out
52 | in this act within 3 years after the date of such incorporation.
53 | A county comprehensive plan is controlling until the
54 | municipality adopts a comprehensive plan in accordance with this
55 | act. A comprehensive plan effective ~~adopted~~ after January 1,
56 | 2019, and all land development regulations adopted to implement
57 | the comprehensive plan must incorporate each development order
58 | existing before the comprehensive plan's effective date, may not
59 | impair the completion of a development in accordance with such
60 | existing development order, and must vest the density and
61 | intensity approved by such development order existing on the
62 | effective date of the comprehensive plan without limitation or
63 | modification.

64 | Section 3. Subsection (4) of section 163.3168, Florida
65 | Statutes, is renumbered as subsection (5), and a new subsection
66 | (4) is added to that section, to read:

67 | 163.3168 Planning innovations and technical assistance.—

68 | (4) When selecting applications for funding for technical
69 | assistance, the state land planning agency shall give a
70 | preference to a county that has a population of 200,000 or less,
71 | and to a municipality located within such a county, for
72 | assistance in determining whether the area in and around a
73 | proposed multi-use corridor interchange as described in s.
74 | 338.2278 contains appropriate land uses and natural resource
75 | protections and for aid in developing or amending a local

76 government's comprehensive plan to provide for such uses,
 77 protections, and intended benefits as provided in s. 338.2278.

78 Section 4. Paragraph (i) is added to subsection (6) of
 79 section 163.3177, Florida Statutes, to read:

80 163.3177 Required and optional elements of comprehensive
 81 plan; studies and surveys.—

82 (6) In addition to the requirements of subsections (1)-
 83 (5), the comprehensive plan shall include the following
 84 elements:

85 (i)1. In accordance with the legislative intent expressed
 86 in ss. 163.3161(10) and 187.101(3) that governmental entities
 87 respect judicially acknowledged and constitutionally protected
 88 private property rights, each local government shall include in
 89 its comprehensive plan a property rights element to ensure that
 90 private property rights are considered in local decisionmaking.
 91 A local government may adopt its own property rights element or
 92 use the following statement of rights:

93
 94 The following rights shall be considered in local
 95 decisionmaking:

96
 97 1. The right of a property owner to physically possess
 98 and control his or her interests in the property,
 99 including easements, leases, or mineral rights.

100

101 2. The right of a property owner to use, maintain,
 102 develop, and improve his or her property for personal
 103 use or the use of any other person, subject to state
 104 law and local ordinances.

105
 106 3. The right of the property owner to privacy and to
 107 exclude others from the property to protect the
 108 owner's possessions and property.

109
 110 4. The right of a property owner to dispose of his or her
 111 property through sale or gift.

112
 113 2. Each local government must adopt a property rights
 114 element in its comprehensive plan by the earlier of its next
 115 proposed plan amendment or July 1, 2023. If a local government
 116 adopts its own property rights element, the element may not
 117 conflict with the statement of rights provided in subparagraph
 118 1.

119 Section 5. Section 163.3237, Florida Statutes, is amended
 120 to read:

121 163.3237 Amendment or cancellation of a development
 122 agreement.—A development agreement may be amended or canceled by
 123 mutual consent of the parties to the agreement or by their
 124 successors in interest. A party or its designated successor in
 125 interest to a development agreement and a local government may

126 | amend or cancel a development agreement without securing the
 127 | consent of other parcel owners whose property was originally
 128 | subject to the development agreement, unless the amendment or
 129 | cancellation directly modifies the allowable uses or
 130 | entitlements of such owner's property.

131 | Section 6. Subsection (4) is added to section 171.042,
 132 | Florida Statutes, to read:

133 | 171.042 Prerequisites to annexation.-

134 | (4) Except as otherwise provided in s. 171.205, a
 135 | municipality may not annex an area within another municipal
 136 | jurisdiction without the other municipality's consent.

137 | Section 7. Subsection (2) of section 180.02, Florida
 138 | Statutes, is amended to read:

139 | Section 180.02 Powers of municipalities.-

140 | (2) Any municipality may extend and execute all of its
 141 | corporate powers applicable for the accomplishment of the
 142 | purposes of this chapter outside of its corporate limits, as
 143 | hereinafter provided and as may be desirable or necessary for
 144 | the promotion of the public health, safety, and welfare or for
 145 | the accomplishment of the purposes of this chapter; provided,
 146 | however, that said corporate powers shall not extend or apply
 147 | within the corporate limits of another municipality. Further, a
 148 | municipality may not extend or execute its corporate powers to
 149 | provide water service or sewage collection and disposal service
 150 | within the unincorporated area of a county that has exercised

151 its authority under s. 153.03 to provide the same service or
152 services within the county without the express consent of a
153 majority of the commissioners at a duly noticed meeting of the
154 board of county commissioners of that county. A municipality,
155 without such consent, may continue to provide water service or
156 sewage collection and disposal service within an unincorporated
157 area in which the municipality provided such service or services
158 before July 1, 2020.

159 Section 8. Subsection (2) of section 337.401, Florida
160 Statutes, is amended to read:

161 337.401 Use of right-of-way for utilities subject to
162 regulation; permit; fees.—

163 (2) The authority may grant to any person who is a
164 resident of this state, or to any corporation which is organized
165 under the laws of this state or licensed to do business within
166 this state, the use of a right-of-way for the utility in
167 accordance with such rules or regulations as the authority may
168 adopt. No utility shall be installed, located, or relocated
169 unless authorized by a written permit issued by the authority.
170 However, for public roads or publicly owned rail corridors under
171 the jurisdiction of the department, a utility relocation
172 schedule and relocation agreement may be executed in lieu of a
173 written permit. The permit shall require the permitholder to be
174 responsible for any damage resulting from the issuance of such
175 permit. The authority may initiate injunctive proceedings as

176 provided in s. 120.69 to enforce provisions of this subsection
177 or any rule or order issued or entered into pursuant thereto. A
178 permit application required by an authority under this
179 subsection must be processed and acted upon consistent with the
180 timeframes provided in subparagraphs (7)(d)7., 8., and 9.

181 Section 9. Paragraph (d) of subsection (4) of section
182 380.06, Florida Statutes, is amended to read:

183 380.06 Developments of regional impact.—

184 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

185 (d) Any agreement entered into by the state land planning
186 agency, the developer, and the local government with respect to
187 an approved development of regional impact previously classified
188 as essentially built out, or any other official determination
189 that an approved development of regional impact is essentially
190 built out, remains valid unless it expired on or before April 6,
191 2018 and may be amended pursuant to the processes adopted by the
192 local government for amending development orders. Any such
193 agreement or amendment may authorize the developer to exchange
194 approved land uses subject to demonstrating that the exchange
195 will not increase impacts to public facilities. This paragraph
196 applies to all such agreements and amendments effective on or
197 after April 6, 2018.

198 Section 10. This act shall take effect July 1, 2020.