

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 a declaration of important
 35 state interest; providing an effective date.

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

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

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

43 (5) This section does not apply to local ordinances
 44 adopted pursuant to ~~part II of chapter 163~~, s. 553.73~~7~~ or s.
 45 633.202.

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

48 163.3167 Scope of act.—

49 (3) A municipality established after the effective date of
 50 this act shall, within 1 year after incorporation, establish a

51 local planning agency, pursuant to s. 163.3174, and prepare and
 52 adopt a comprehensive plan of the type and in the manner set out
 53 in this act within 3 years after the date of such incorporation.
 54 A county comprehensive plan is controlling until the
 55 municipality adopts a comprehensive plan in accordance with this
 56 act. A comprehensive plan effective ~~adopted~~ after January 1,
 57 2019, and all land development regulations adopted to implement
 58 the comprehensive plan must incorporate each development order
 59 existing before the comprehensive plan's effective date, may not
 60 impair the completion of a development in accordance with such
 61 existing development order, and must vest the density and
 62 intensity approved by such development order existing on the
 63 effective date of the comprehensive plan without limitation or
 64 modification.

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

68 163.3168 Planning innovations and technical assistance.—

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

76 protections and for aid in developing or amending a local
 77 government's comprehensive plan to provide for such uses,
 78 protections, and intended benefits as provided in s. 338.2278.

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

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

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

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

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

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

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

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

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

113
 114 2. Each local government must adopt a property rights
 115 element in its comprehensive plan by the earlier of its next
 116 proposed plan amendment or July 1, 2023. If a local government
 117 adopts its own property rights element, the element may not
 118 conflict with the statement of rights provided in subparagraph
 119 1.

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

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

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

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

134 | 171.042 Prerequisites to annexation.-

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

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

140 | 180.02 Powers of municipalities.-

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

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

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

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

164 (2) The authority may grant to any person who is a
 165 resident of this state, or to any corporation that ~~which~~ is
 166 organized under the laws of this state or licensed to do
 167 business within this state, the use of a right-of-way for the
 168 utility in accordance with such rules or regulations as the
 169 authority may adopt. A ~~No~~ utility may not ~~shall~~ be installed,
 170 located, or relocated unless authorized by a written permit
 171 issued by the authority. However, for public roads or publicly
 172 owned rail corridors under the jurisdiction of the department, a
 173 utility relocation schedule and relocation agreement may be
 174 executed in lieu of a written permit. The permit must ~~shall~~
 175 require the permitholder to be responsible for any damage

176 resulting from the issuance of such permit. The authority may
177 initiate injunctive proceedings as provided in s. 120.69 to
178 enforce provisions of this subsection or any rule or order
179 issued or entered into pursuant thereto. A permit application
180 required under this subsection by a county or municipality
181 having jurisdiction and control of the right-of-way of any
182 public road must be processed and acted upon in accordance with
183 the timeframes provided in subparagraphs (7)(d)7., 8., and 9.

184 Section 9. Paragraph (d) of subsection (4) of section
185 380.06, Florida Statutes, is amended to read:

186 380.06 Developments of regional impact.—

187 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

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

201 Section 10. The Legislature finds and declares that this
202 act fulfills an important state interest.

203 Section 11. This act shall take effect July 1, 2020.