

Bill No. SB 2614

Barcode 411460

CHAMBER ACTION

Senate

House

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Senator Constantine moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 1013.30, Florida Statutes, is amended to read:

1013.30 University campus master plans and campus development agreements.--

(1) This section contains provisions for campus planning and concurrency management that supersede the requirements of part II of chapter 163, except when stated otherwise in this section. These special growth management provisions are adopted in recognition of the unique relationship between university campuses and the local governments in which they are located. While the campuses provide research and educational benefits of statewide and national importance, and further provide substantial educational, economic, and cultural benefits to their host local governments, they may also have an adverse impact on the

Bill No. SB 2614

Barcode 411460

1 public facilities and services and natural resources of host
 2 governments. On balance, however, universities should be
 3 considered as vital public facilities of the state and local
 4 governments. The intent of this section is to address this
 5 unique relationship by providing for the preparation of campus
 6 master plans and associated campus development agreements.

7 (2) As used in this section:

8 (a) "Affected local government" means a unit of local
 9 government that provides public services to or is responsible
 10 for maintaining facilities within a campus of an institution
 11 or is directly affected by development that is proposed for a
 12 campus.

13 (b) "Affected person" means a host local government;
 14 an affected local government; any state, regional, or federal
 15 agency; or a person who resides, owns property, or owns or
 16 operates a business within the boundaries of a host local
 17 government or affected local government. In order to qualify
 18 under this definition, each person, other than a host or
 19 affected local government, must have submitted oral or written
 20 comments, recommendations, or objections to the university
 21 during the period of time beginning with the advertisement of
 22 the first public hearing under subsection (6) and ending with
 23 the adoption of the campus master plan or plan amendment. If
 24 the plan or plan amendment is amended at the adoption hearing,
 25 the time period shall be extended by 7 calendar days. However,
 26 any comments, recommendations, or objections filed during the
 27 extension must be limited to those amendments adopted at the
 28 adoption hearing.

29 (c) "Host local government" means a local government
 30 within the jurisdiction of which all or part of a campus of an
 31 institution is located, but does not include a county if no

Bill No. SB 2614

Barcode 411460

1 part of an institution is located within its unincorporated
2 area.

3 (d) "Institution" means a university.

4 (e) Division" means the Division of Administrative
5 Hearings.

6 (3) Each university board of trustees shall prepare
7 and adopt a campus master plan for the university and maintain
8 a copy of the plan on the university's website. The master
9 plan must identify general land uses and address the need for
10 and plans for provision of roads, parking, public
11 transportation, solid waste, drainage, sewer, potable water,
12 and recreation and open space during the coming 10 to 20
13 years. The plans must contain elements relating to future land
14 use, intergovernmental coordination, capital improvements,
15 recreation and open space, general infrastructure, housing,
16 and conservation. Each element must address compatibility with
17 the surrounding community. The master plan must identify
18 specific land uses, general location of structures, densities
19 and intensities of use, and contain standards for onsite
20 development, site design, environmental management, and the
21 preservation of historic and archaeological resources. The
22 transportation element must address reasonable transportation
23 demand management techniques to minimize offsite impacts where
24 possible. Data and analyses on which the elements are based
25 must include, at a minimum: the characteristics of vacant
26 lands; projected impacts of development on onsite and offsite
27 infrastructure, public services, and natural resources;
28 student enrollment projections; student housing needs; and the
29 need for academic and support facilities. Master plans must be
30 updated at least every 5 years.

31 (4) Campus master plans may contain additional

Bill No. SB 2614

Barcode 411460

1 elements at the discretion of the Board of Governors State
 2 ~~Board of Education~~; however, such elements are not subject to
 3 review under this section. These additional elements may
 4 include the academic mission of the institution, academic
 5 program, utilities, public safety, architectural design,
 6 landscape architectural design, and facilities maintenance.

7 (5) Subject to the right of the university board of
 8 trustees to initiate the dispute resolution provisions of
 9 subsection (8), a campus master plan must not be in conflict
 10 with the comprehensive plan of the host local government and
 11 the comprehensive plan of any affected local governments. A
 12 campus master plan must be consistent with the state
 13 comprehensive plan.

14 (6) Before a campus master plan is adopted, a copy of
 15 the draft master plan must be sent for review or made
 16 available electronically to the host and any affected local
 17 governments, the state land planning agency, the Department of
 18 Environmental Protection, the Department of Transportation,
 19 the Department of State, the Fish and Wildlife Conservation
 20 Commission, and the applicable water management district and
 21 regional planning council. At the request of a governmental
 22 entity, a hard copy of the draft master plan shall be
 23 submitted within 7 business days of an electronic copy being
 24 made available. These agencies must be given 90 days after
 25 receipt of the campus master plans in which to conduct their
 26 review and provide comments to the university board of
 27 trustees. The commencement of this review period must be
 28 advertised in newspapers of general circulation within the
 29 host local government and any affected local government to
 30 allow for public comment. Following receipt and consideration
 31 of all comments, and the holding of an informal information

Barcode 411460

1 session and at least two public hearings within the host
2 jurisdiction, the university board of trustees shall adopt the
3 campus master plan. It is the intent of the Legislature that
4 the university board of trustees comply with the notice
5 requirements set forth in s. 163.3184(15) to ensure full
6 public participation in this planning process. The informal
7 public information session must be held before the first
8 public hearing. The first public hearing shall be held before
9 the draft master plan is sent to the agencies specified in
10 this subsection. The second public hearing shall be held in
11 conjunction with the adoption of the draft master plan by the
12 university board of trustees. Campus master plans developed
13 under this section are not rules and are not subject to
14 chapter 120 except as otherwise provided in this section.

15 (7) Notice that the campus master plan has been
16 adopted must be forwarded within 45 days after its adoption to
17 any affected person that submitted comments on the draft
18 campus master plan. The notice must state how and where a copy
19 of the master plan may be obtained or inspected. Within 30
20 days after receipt of the notice of adoption of the campus
21 master plan, or 30 days after the date the adopted plan is
22 available for review, whichever is later, an affected person
23 who submitted comments on the draft master plan may petition
24 the university board of trustees, challenging the campus
25 master plan as not being in compliance with this section or
26 any rule adopted under this section. The petition must state
27 each objection, identify its source, and provide a recommended
28 action. A petition filed by an affected local government may
29 raise only those issues directly pertaining to the public
30 facilities or services that the affected local government
31 provides to or maintains within the campus or to the direct

Bill No. SB 2614

Barcode 411460

1 impact that campus development would have on the affected
 2 local government. A petition filed by an affected person must
 3 include those items required by the uniform rules adopted
 4 under s. 120.54(5). Any affected person who files a petition
 5 under this subsection may challenge only those provisions in
 6 the plan that were raised by that person's oral or written
 7 comments, recommendations, or objections presented to the
 8 university board of trustees, as required by s. 1013.30(1)(b).
 9 The university may, during the pendency of a challenge,
 10 negotiate a campus development agreement as provided in
 11 subsection (11).

12 (8) Following receipt of a petition challenging a
 13 campus master plan or plan amendment, the university board of
 14 trustees must submit the petition to the Division of
 15 Administrative Hearings of the Department of Management
 16 Services for assignment to an administrative law judge under
 17 ss. 120.569 and 120.57.

18 (a) If a party to the proceeding requests mediation,
 19 the parties have no more than 30 days to resolve any issue in
 20 dispute. The costs of the mediation must be borne equally by
 21 all of the parties to the proceeding.

22 (b) If the matter is not resolved within 30 days, the
 23 administrative law judge shall proceed with a hearing under
 24 ss. 120.569 and 120.57. The hearing shall be held in the
 25 county where the campus of the university subject to the
 26 amendment is located. Within 60 days after receiving the
 27 petition, the administrative law judge must, consistent with
 28 the applicable requirements and procedures of the
 29 Administrative Procedure Act, hold a hearing, identify the
 30 issues remaining in dispute, prepare a record of the
 31 proceedings, and submit a recommended order to the state land

Bill No. SB 2614

Barcode 411460

1 planning agency for final action. Parties to the proceeding
 2 may submit written exceptions to the recommended order within
 3 10 days after the recommended order is issued. The state land
 4 planning agency must issue its final order no later than 60
 5 days after receiving the recommended order.

6 ~~(8) Following receipt of a petition, the petitioning~~
 7 ~~party or parties and the university board of trustees shall~~
 8 ~~mediate the issues in dispute as follows:~~

9 ~~(a) The parties have 60 days to resolve the issues in~~
 10 ~~dispute. Other affected parties that submitted comments on the~~
 11 ~~draft campus master plan must be given the opportunity to~~
 12 ~~participate in these and subsequent proceedings.~~

13 ~~(b) If resolution of the matter cannot be achieved~~
 14 ~~within 60 days, the issues must be submitted to the state land~~
 15 ~~planning agency. The state land planning agency has 60 days to~~
 16 ~~hold informal hearings, if necessary, identify the issues~~
 17 ~~remaining in dispute, prepare a record of the proceedings, and~~
 18 ~~submit the matter to the Administration Commission for final~~
 19 ~~action. The report to the Administration Commission must list~~
 20 ~~each issue in dispute, describe the nature and basis for each~~
 21 ~~dispute, identify alternative resolutions of the dispute, and~~
 22 ~~make recommendations.~~

23 ~~(c) After receiving the report from the state land~~
 24 ~~planning agency, the Administration Commission shall take~~
 25 ~~action to resolve the issues in dispute. In deciding upon a~~
 26 ~~proper resolution, the Administration Commission shall~~
 27 ~~consider the nature of the issues in dispute, the compliance~~
 28 ~~of the parties with this section, the extent of the conflict~~
 29 ~~between the parties, the comparative hardships, and the public~~
 30 ~~interest involved. If the Administration Commission~~
 31 ~~incorporates in its final order a term or condition that~~

Bill No. SB 2614

Barcode 411460

1 ~~specifically requires the university board of trustees or a~~
2 ~~local government to amend or modify its plan, the university~~
3 ~~board of trustees shall have a reasonable period of time to~~
4 ~~amend or modify its plan, and a local government shall~~
5 ~~initiate the required plan amendment, which shall be exempt~~
6 ~~from the requirements of s. 163.3187(1). Any required~~
7 ~~amendment to a local government comprehensive plan must be~~
8 ~~limited in scope so as to only relate to specific impacts~~
9 ~~attributable to the campus development. The final order of the~~
10 state land planning agency Administration Commission is
11 subject to judicial review as provided in s. 120.68.

12 (d) The signature of an attorney or party constitutes
13 a certificate that he or she has read the pleading, motion, or
14 other paper and that, to the best of his or her knowledge,
15 information, and belief formed after reasonable inquiry, it is
16 not interposed for any improper purpose, such as to harass or
17 to cause unnecessary delay, or for economic advantage,
18 competitive reasons, frivolous purposes, or needless increase
19 in the cost of litigation. If a pleading, motion, or other
20 paper is signed in violation of these requirements, the
21 division, upon motion or its own initiative, shall impose upon
22 either the person who signed it or a represented party, or
23 both, an appropriate sanction, which may include an order to
24 pay to the other party or parties the amount of reasonable
25 expenses incurred because of the filing of the pleading,
26 motion, or other paper, including reasonable attorney's fees.

27 (9) An amendment to a campus master plan must be
28 reviewed and adopted under subsections (6)-(8) if such
29 amendment, alone or in conjunction with other amendments,
30 would:

31 (a) Increase density or intensity of use of land on

Bill No. SB 2614

Barcode 411460

1 the campus by more than 10 percent;

2 (b) Decrease the amount of natural areas, open space,
3 or buffers on the campus by more than 10 percent; or

4 (c) Rearrange land uses in a manner that will increase
5 the impact of any proposed campus development by more than 10
6 percent on a road or on another public facility or service
7 provided or maintained by the state, the county, the host
8 local government, or any affected local government.

9 (10) Upon adoption of a campus master plan, the
10 university board of trustees shall draft a proposed campus
11 development agreement for each local government and send it to
12 the local government within 270 days after the adoption of the
13 relevant campus master plan.

14 (11) At a minimum, each campus development agreement:

15 (a) Must identify the geographic area of the campus
16 and local government covered by the campus development
17 agreement.

18 (b) Must establish its duration, which must be at
19 least 5 years and not more than 10 years.

20 (c) Must address public facilities and services
21 including roads, sanitary sewer, solid waste, drainage,
22 potable water, parks and recreation, and public
23 transportation.

24 (d) Must, for each of the facilities and services
25 listed in paragraph (c), identify the level-of-service
26 standard established by the applicable local government,
27 identify the entity that will provide the service to the
28 campus, and describe any financial arrangements between the
29 Board of Governors ~~State Board of Education~~ and other entities
30 relating to the provision of the facility or service.

31 (e) Must, for each of the facilities and services

Bill No. SB 2614

Barcode 411460

1 listed in paragraph (c), determine the impact of existing and
 2 proposed campus development reasonably expected over the term
 3 of the campus development agreement on each service or
 4 facility and any deficiencies in such service or facility
 5 which the proposed campus development will create or to which
 6 it will contribute.

7 (f) May, if proposed by the university board of
 8 trustees, address the issues prescribed in paragraphs (d) and
 9 (e) with regard to additional facilities and services,
 10 including, but not limited to, electricity, nonpotable water,
 11 law enforcement, fire and emergency rescue, gas, and
 12 telephone.

13 (g) Must, to the extent it addresses issues addressed
 14 in the campus master plan and host local government
 15 comprehensive plan, be consistent with the adopted campus
 16 master plan and host local government comprehensive plan.

17 (12)(a) Each proposed campus development agreement
 18 must clearly identify the lands to which the university board
 19 of trustees intends the campus development agreement to apply.

20 (b) Such land may include:

21 1. Land to be purchased by the university board of
 22 trustees and if purchased with state appropriated funds titled
 23 in the name of the board of trustees of the Internal
 24 Improvement Trust Fund for use by an institution over the life
 25 of the campus development agreement.

26 2. Land not owned by the board of trustees of the
 27 Internal Improvement Trust Fund if the university board of
 28 trustees intends to undertake development activities on the
 29 land during the term of the campus development agreement.

30 (c) Land owned by the Board of Trustees of the
 31 Internal Improvement Trust Fund for lease to the Board of

Bill No. SB 2614

Barcode 411460

1 ~~Governors State Board of Education~~ acting on behalf of the
 2 institution may be excluded, but any development activity
 3 undertaken on excluded land is subject to part II of chapter
 4 163.

5 (13) With regard to the impact of campus development
 6 on the facilities and services listed in paragraph (11)(c),
 7 the following applies:

8 (a) All improvements to facilities or services which
 9 are necessary to eliminate the deficiencies identified in
 10 paragraph (11)(e) must be specifically listed in the campus
 11 development agreement.

12 (b) The university board of trustees' fair share of
 13 the cost of the measures identified in paragraph (a) must be
 14 stated in the campus development agreement. In determining the
 15 fair share, the effect of any demand management techniques,
 16 which may include such techniques as flexible work hours and
 17 carpooling, that are used by the Board of Governors State
 18 ~~Board of Education~~ to minimize the offsite impacts shall be
 19 considered.

20 (c) The university board of trustees is responsible
 21 for paying the fair share identified in paragraph (b), and it
 22 may do so by:

23 1. Paying a fair share of each of the improvements
 24 identified in paragraph (a); or

25 2. Taking on full responsibility for the improvements,
 26 selected from the list of improvements identified in paragraph
 27 (a), and agreed to between the host local government and the
 28 Board of Governors State Board of Education, the total cost of
 29 which equals the contribution identified in paragraph (b).

30 (d) All concurrency management responsibilities of the
 31 university board of trustees are fulfilled if the university

Bill No. SB 2614

Barcode 411460

1 board of trustees expends the total amount of funds identified
 2 in paragraph (b) notwithstanding that the university board of
 3 trustees may not have undertaken or made contributions to some
 4 of the measures identified in paragraph (a).

5 (e) Capital projects included in the campus
 6 development agreement may be used by the local government for
 7 the concurrency management purposes.

8 (f) Funds provided by universities in accordance with
 9 campus development agreements are subject to appropriation by
 10 the Legislature. A development authorized by a campus
 11 development agreement may not be built until the funds to be
 12 provided pursuant to paragraph (b) are appropriated by the
 13 Legislature.

14 (14) A campus development agreement may not address or
 15 include any standards or requirements for onsite development,
 16 including environmental management requirements or
 17 requirements for site preparation.

18 (15) Once the university board of trustees and host
 19 local government agree on the provisions of the campus
 20 development agreement, the campus development agreement shall
 21 be executed by the university board of trustees and the host
 22 local government in a manner consistent with the requirements
 23 of s. 163.3225. Once the campus development agreement is
 24 executed, it is binding upon the university board of trustees
 25 and host local government. A copy of the executed campus
 26 development agreement must be sent to the state land planning
 27 agency within 14 days after the date of execution.

28 (16) If, within 180 days following the host local
 29 government's receipt of the proposed campus development
 30 agreement, the university board of trustees and host local
 31 government cannot reach agreement on the provisions of the

Bill No. SB 2614

Barcode 411460

1 campus development agreement, the following procedures for
2 resolving the matter must be followed:

3 (a) The matter must be submitted to the state land
4 planning agency, which has 60 days to hold informal hearings,
5 if necessary, ~~and identify the issues remaining in dispute,~~
6 ~~prepare a record of the proceedings, and submit the matter to~~
7 ~~the Administration Commission for final action. The report to~~
8 ~~the Administration Commission must list each issue in dispute,~~
9 ~~describe the nature and basis for each dispute, identify~~
10 ~~alternative resolutions of each dispute, and make~~
11 ~~recommendations.~~

12 (b) ~~After receiving the report from the state land~~
13 ~~planning agency, the Administration Commission shall take~~
14 ~~action to resolve the issues in dispute. In deciding upon a~~
15 ~~proper resolution, the state land planning agency~~
16 ~~Administration Commission~~ shall consider the nature of the
17 issues in dispute, the compliance of the parties with this
18 section, the extent of the conflict between the parties, the
19 comparative hardships, and the public interest involved. In
20 resolving the matter, the state land planning agency
21 ~~Administration Commission~~ may prescribe, by order, the
22 contents of the campus development agreement.

23 (17) Disputes that arise in the implementation of an
24 executed campus development agreement must be resolved as
25 follows:

26 (a) Each party shall select one mediator and notify
27 the other in writing of the selection. Thereafter, within 15
28 days after their selection, the two mediators selected by the
29 parties shall select a neutral, third mediator to complete the
30 mediation panel.

31 (b) Each party is responsible for all costs and fees

Bill No. SB 2614

Barcode 411460

1 payable to the mediator selected by it and shall equally bear
 2 responsibility for the costs and fees payable to the third
 3 mediator for services rendered and costs expended in
 4 connection with resolving disputes pursuant to the campus
 5 development agreement.

6 (c) Within 10 days after the selection of the
 7 mediation panel, proceedings must be convened by the panel to
 8 resolve the issues in dispute.

9 (d) Within 60 days after the convening of the panel,
 10 the panel shall issue a report containing a recommended
 11 resolution of the issues in dispute.

12 (e) If either the university board of trustees or
 13 local government rejects the recommended resolution of the
 14 issues in dispute, the disputed issues must be resolved
 15 pursuant to the procedures provided by subsection (16).

16 (18) Once the campus development agreement is
 17 executed, all campus development may proceed without further
 18 review by the host local government if it is consistent with
 19 the adopted campus master plan and associated campus
 20 development agreement.

21 (19) A campus development agreement may be amended
 22 under subsections (10)-(16):

23 (a) In conjunction with any amendment to the campus
 24 master plan subject to the requirements in subsection (9).

25 (b) If either party delays by more than 12 months the
 26 construction of a capital improvement identified in the
 27 agreement.

28 (20) Any party to a campus development agreement or
 29 aggrieved or adversely affected person, as defined in s.
 30 163.3215(2), may file an action for injunctive relief in the
 31 circuit court where the host local government is located to

Bill No. SB 2614

Barcode 411460

1 enforce the terms of a campus development agreement or to
 2 challenge compliance of the agreement with this section. This
 3 action shall be the sole and exclusive remedy of an adversely
 4 affected person other than a party to the agreement to enforce
 5 any rights or obligations arising from a development
 6 agreement.

7 (21) State and regional environmental program
 8 requirements remain applicable, except that this section
 9 supersedes all other sections of part II of chapter 163 and s.
 10 380.06 except as provided in this section.

11 (22) In consultation with the state land planning
 12 agency, the Board of Governors State Board of Education shall
 13 adopt a single, uniform set of rules to administer
 14 implementing subsections (3)-(6). The rules must set specific
 15 schedules and procedures for the development and adoption of
 16 campus master plans. Before adopting the rules, the Board of
 17 Governors must obtain written verification from the state land
 18 planning agency that the rules satisfy the minimum statutory
 19 criteria required by subsections (3)-(6). The state land
 20 planning agency shall provide the verification within 45 days
 21 after receiving a copy of the rules.

22 (23) Until the campus master plan and campus
 23 development agreement for an institution have been finalized,
 24 any dispute between the university board of trustees and a
 25 local government relating to campus development for that
 26 institution shall be resolved by the process established in
 27 subsection (8).

28 Section 2. This act shall take effect July 1, 2005.

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Bill No. SB 2614

Barcode 411460

1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 Delete everything before the enacting clause

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5 and insert:

6 A bill to be entitled

7 An act relating to university campus planning;

8 amending s. 1013.30, F.S.; defining terms;

9 requiring each university board of trustees to

10 maintain a copy of the campus master plan on

11 the university's website and provide for

12 electronic copies of its draft master plan;

13 providing duties of the Board of Governors;

14 requiring that the university hold an informal

15 public information session before the required

16 public hearings are held on the draft master

17 plan; requiring that the public hearings be

18 held at specified times; limiting the issues

19 that an individual may raise challenging a

20 campus master plan; authorizing the university

21 to execute a campus development agreement

22 during the pendency of a challenge; providing

23 for an evidentiary hearing to be held by the

24 Division of Administrative Hearings if a

25 challenge to the master plan is not resolved;

26 specifying the evidentiary procedures to be

27 used in such hearing; providing for attorney's

28 fees in any dispute submitted to the state land

29 planning agency or the Administration

30 Commission in which the pleading or motion was

31 made for an improper purpose or for economic

Bill No. SB 2614

Barcode 411460

1 advantage; revising procedures to resolve
2 disputes between the university board of
3 trustees and the host local government;
4 requiring that Board of Governors rather than
5 the State Board of Education adopt rules to
6 administer the procedures for preparing and
7 adopting the campus master plan; providing an
8 effective date.

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