

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representatives Pickens, Allen, Bowen, Cannon, Grimsley,
2 Poppell, Proctor, Sansom, Stansel, and Troutman offered the
3 following:

Amendment (with title amendment)

On page 149, before line 1, insert:

Section 35. Paragraphs (a) and (c) of subsection (4) and
paragraph (a) of subsection (5) and of section 70.001, Florida
Statutes, are amended to read:

70.001 Private property rights protection.--

(4)(a) Not less than 180 days prior to filing an action
under this section against a governmental entity, a property
owner who seeks compensation under this section must present the
claim in writing to the head of the governmental entity, except
that if the property is classified as agricultural pursuant to

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16 | s. 193.461, the notice period is 90 days. The property owner
17 | must submit, along with the claim, a bona fide, valid appraisal
18 | that supports the claim and demonstrates the loss in fair market
19 | value to the real property. If the action of government is the
20 | culmination of a process that involves more than one
21 | governmental entity, or if a complete resolution of all relevant
22 | issues, in the view of the property owner or in the view of a
23 | governmental entity to whom a claim is presented, requires the
24 | active participation of more than one governmental entity, the
25 | property owner shall present the claim as provided in this
26 | section to each of the governmental entities.

27 | (c) During the 90-day-notice period or the 180-day-notice
28 | period, unless extended by agreement of the parties, the
29 | governmental entity shall make a written settlement offer to
30 | effectuate:

31 | 1. An adjustment of land development or permit standards
32 | or other provisions controlling the development or use of land.

33 | 2. Increases or modifications in the density, intensity,
34 | or use of areas of development.

35 | 3. The transfer of developmental rights.

36 | 4. Land swaps or exchanges.

37 | 5. Mitigation, including payments in lieu of onsite
38 | mitigation.

39 | 6. Location on the least sensitive portion of the
40 | property.

41 | 7. Conditioning the amount of development or use
42 | permitted.

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43 8. A requirement that issues be addressed on a more
44 comprehensive basis than a single proposed use or development.

45 9. Issuance of the development order, a variance, special
46 exception, or other extraordinary relief.

47 10. Purchase of the real property, or an interest therein,
48 by an appropriate governmental entity.

49 11. No changes to the action of the governmental entity.
50

51 If the property owner accepts the settlement offer, the
52 governmental entity may implement the settlement offer by
53 appropriate development agreement; by issuing a variance,
54 special exception, or other extraordinary relief; or by other
55 appropriate method, subject to paragraph (d).

56 (5)(a) During the 90-day-notice period or the 180-day-
57 notice period, unless a settlement offer is accepted by the
58 property owner, each of the governmental entities provided
59 notice pursuant to paragraph (4)(a) shall issue a written
60 ripeness decision identifying the allowable uses to which the
61 subject property may be put. The failure of the governmental
62 entity to issue a written ripeness decision during the
63 applicable 90-day-notice period or 180-day-notice period shall
64 be deemed to ripen the prior action of the governmental entity,
65 and shall operate as a ripeness decision that has been rejected
66 by the property owner. The ripeness decision, as a matter of
67 law, constitutes the last prerequisite to judicial review, and
68 the matter shall be deemed ripe or final for the purposes of the

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69 judicial proceeding created by this section, notwithstanding the
70 availability of other administrative remedies.

71 Section 36. Subsection (5) is added to section 163.3162,
72 Florida Statutes, to read:

73 163.3162 Agricultural Lands and Practices Act.--

74 (5)(a) The owner of a parcel of land defined as an
75 agricultural enclave under s. 163.3164(32)(e)1. may apply for an
76 amendment to the local government comprehensive plan pursuant to
77 s. 163.3187. Such amendment is not subject to rule 9J-5.006(5),
78 Florida Administrative Code, and may include land uses and
79 intensities of use that are consistent with the uses and
80 intensities of use of the industrial, commercial, or residential
81 areas that surround the parcel. The local government shall make
82 a determination regarding transmittal of such amendment within
83 120 days after receipt of a complete application for the
84 amendment and transmit the amendment to the state land planning
85 agency for review pursuant to s. 163.3184 at the first available
86 transmittal cycle. The state land planning agency may not use
87 any provision of rule 9J-5.006(5), Florida Administrative Code,
88 as a factor in determining compliance of an amendment under this
89 paragraph.

90 (b) In order to preserve commercial agricultural activity,
91 encourage mixed-use infill development, prevent urban sprawl,
92 and provide more efficient delivery of municipal services and
93 facilities, the owner of a parcel of land defined as an
94 agricultural enclave under s. 163.3164(32)(e)2. may apply for an
95 amendment to the local government comprehensive plan pursuant to

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96 s. 163.3187. Such amendment is not subject to rule 9J-5.006(5),
97 Florida Administrative Code, and may include land uses and
98 intensities of use that are consistent with the uses and
99 intensities of use of the industrial, commercial, or residential
100 areas that surround the parcel. Each application for a
101 comprehensive plan amendment under this paragraph must include
102 appropriate new urbanism concepts such as clustering, mixed-use
103 development, the creation of rural village and city centers, and
104 the transfer of development rights in order to discourage urban
105 sprawl while protecting landowner rights.

106 1. The local government and the owner of a parcel of land
107 that is the subject of an application for an amendment under
108 this paragraph have 180 days following the date that the local
109 government receives a complete application to negotiate in good
110 faith to reach consensus on the land uses and intensities of use
111 that are consistent with the uses and intensities of use of the
112 industrial, commercial, or residential areas that surround the
113 parcel. Within 30 days after the local government's receipt of
114 such an application, the local government and owner must agree
115 in writing to a schedule for information submittal, public
116 hearings, negotiations, and final action on the amendment, which
117 schedule may thereafter be altered only with the written consent
118 of the local government and the owner. Compliance with the
119 schedule in the written agreement constitutes good faith
120 negotiations for purposes of subparagraph 3.

121 2. Upon conclusion of good faith negotiations under
122 subparagraph 1., regardless of whether the local government and

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123 owner reach consensus on the land uses and intensities of use
124 that are consistent with the uses and intensities of use of the
125 industrial, commercial, or residential areas that surround the
126 parcel, the amendment must be transmitted to the state land
127 planning agency for review pursuant to s. 163.3184. If the local
128 government fails to transmit the amendment within 180 days after
129 receipt of a complete application, the amendment must be
130 immediately transferred to the state land planning agency for
131 such review at the first available transmittal cycle. The state
132 land planning agency may not use any provision of rule 9J-
133 5.006(5), Florida Administrative Code, as a factor in
134 determining compliance of an amendment under this paragraph.

135 3. If the owner fails to negotiate in good faith, rule 9J-
136 5.006(5), Florida Administrative Code, shall apply throughout
137 the negotiation and amendment process under this paragraph.

138 (c) Nothing within this subsection relating to
139 agricultural enclaves shall preempt or replace any protection
140 currently existing for any property located within the
141 boundaries of the following areas:

- 142 1. The Wekiva Study Area, as defined in s. 369.316; or
143 2. The Everglades Protection Area, as defined in s.
144 373.4592(2).

145 Section 37. Subsection (32) is added to section 163.3164,
146 Florida Statutes, to read:

147 163.3164 Local Government Comprehensive Planning and Land
148 Development Regulation Act; definitions.--As used in this act:

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149 (32) "Agricultural enclave" means an unincorporated,
150 undeveloped parcel that:

151 (a) Is owned by a single person or entity;

152 (b) Has been in continuous use for bona fide agricultural
153 purposes, as defined by s. 193.461, for a period of 5 years
154 prior to the date of any comprehensive plan amendment
155 application;

156 (c) Is surrounded on at least 75 percent of its perimeter
157 by:

158 1. Property that has existing industrial, commercial, or
159 residential development; or

160 2. Property that the local government has designated, in
161 the local government's comprehensive plan, zoning map, and
162 future land use map, as land that is to be developed for
163 industrial, commercial, or residential purposes, and at least 75
164 percent of such property is existing industrial, commercial, or
165 residential development;

166 (d) Has public services, including water, wastewater,
167 transportation, schools, and recreation facilities, available or
168 such public services are scheduled to be provided as part of a
169 financially feasible 5-year schedule of capital improvements
170 that is adopted by the local government or by an alternative
171 provider of local government infrastructure; and

172 (e) Satisfies one of the following acreage criteria:

173 1. The qualified parcel may not exceed 500 acres or;

174 2. The qualified parcel may not exceed 2,560 acres.

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175 Section 38. Section 259.047, Florida Statutes, is created
176 to read:

177 259.047 Acquisition of land on which an agricultural lease
178 exists.--

179 (1) When land with an existing agricultural lease is
180 acquired in fee simple pursuant to this chapter or chapter 375,
181 the existing agricultural lease may continue in force for the
182 actual time remaining on the lease agreement. Any entity
183 managing lands acquired under this section must consider
184 existing agricultural leases in the development of a land
185 management plan required under s. 253.034.

186 (2) Where consistent with the purposes for which the
187 property was acquired, the state or acquiring entity shall make
188 reasonable efforts to keep lands in agricultural production
189 which are in agricultural production at the time of acquisition.

190 Section 39. Paragraph (a) of subsection (2) of section
191 373.0361, Florida Statutes, is amended to read:

192 373.0361 Regional water supply planning.--

193 (2) Each regional water supply plan shall be based on at
194 least a 20-year planning period and shall include, but not be
195 limited to:

196 (a) A water supply development component that includes:

197 1. A quantification of the water supply needs for all
198 existing and reasonably projected future uses within the
199 planning horizon. The level-of-certainty planning goal
200 associated with identifying the water supply needs of existing
201 and future reasonable-beneficial uses shall be based upon

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202 meeting those needs for a 1-in-10-year drought event. Population
203 projections used for determining public water supply needs must
204 be based upon the best available data. In determining the best
205 available data, the district shall consider the University of
206 Florida's Bureau of Economic and Business Research (BEBR) medium
207 population projections and any population projection data and
208 analysis submitted by a local government pursuant to the public
209 workshop described in subsection (1) if the data and analysis
210 support the local government's comprehensive plan. Any
211 adjustment of or deviation from the BEBR projections must be
212 fully described, and the original BEBR data must be presented
213 along with the adjusted data.

214 2. A list of water source options, including traditional
215 and alternative source options, from which local government,
216 government-owned and privately owned utilities, self-suppliers,
217 and others may choose, for water supply development, the total
218 capacity of which will, in conjunction with water conservation
219 and other demand management measures, exceed the needs
220 identified in subparagraph 1. The list of water-source options
221 for water supply development must contain provisions that
222 recognize that alternative water-source options for agricultural
223 self-suppliers are limited.

224 3. For each option listed in subparagraph 2., the
225 estimated amount of water available for use and the estimated
226 costs of and potential sources of funding for water supply
227 development.

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228 4. A list of water supply development projects that meet
229 the criteria in s. 373.0831(4).

230
231 The water supply development component of a regional water
232 supply plan which deals with or affects public utilities and
233 public water supply for those areas served by a regional water
234 supply authority and its member governments within the
235 boundaries of the Southwest Florida Water Management District
236 shall be developed jointly by the authority and the district.

237 Section 40. Subsections (2) and (3) of section 373.236,
238 Florida Statutes, are renumbered as subsections (3) and (4),
239 respectively, and a new subsection (2) is added to said section,
240 to read:

241 373.236 Duration of permits; compliance reports.--

242 (2) The Legislature finds that some agricultural
243 landowners remain unaware of their ability to request a 20-year
244 consumptive use permit under subsection (1) for initial permits
245 or for renewals. Therefore, the water management districts shall
246 inform agricultural applicants of this option in the application
247 form.

248 Section 41. Section 373.2234, Florida Statutes, is amended
249 to read:

250 373.2234 Preferred water supply sources.--The governing
251 board of a water management district is authorized to adopt
252 rules that identify preferred water supply sources for
253 consumptive uses for which there is sufficient data to establish
254 that a preferred source will provide a substantial new water

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255 supply to meet the existing and projected reasonable-beneficial
256 uses of a water supply planning region identified pursuant to s.
257 373.0361(1), while sustaining existing water resources and
258 natural systems. At a minimum, such rules must contain a
259 description of the preferred water supply source and an
260 assessment of the water the preferred source is projected to
261 produce. If an applicant proposes to use a preferred water
262 supply source, that applicant's proposed water use is subject to
263 s. 373.223(1), except that the proposed use of a preferred water
264 supply source must be considered by a water management district
265 when determining whether a permit applicant's proposed use of
266 water is consistent with the public interest pursuant to s.
267 373.223(1)(c). A consumptive use permit issued for the use of a
268 preferred water supply source must be granted, when requested by
269 the applicant, for at least a 20-year period and may be subject
270 to the compliance reporting provisions of s. 373.236(4)~~(3)~~.
271 Nothing in this section shall be construed to exempt the use of
272 preferred water supply sources from the provisions of ss.
273 373.016(4) and 373.223(2) and (3), or be construed to provide
274 that permits issued for the use of a nonpreferred water supply
275 source must be issued for a duration of less than 20 years or
276 that the use of a nonpreferred water supply source is not
277 consistent with the public interest. Additionally, nothing in
278 this section shall be interpreted to require the use of a
279 preferred water supply source or to restrict or prohibit the use
280 of a nonpreferred water supply source. Rules adopted by the
281 governing board of a water management district to implement this

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282 section shall specify that the use of a preferred water supply
283 source is not required and that the use of a nonpreferred water
284 supply source is not restricted or prohibited.

285 Section 42. Section 373.407, Florida Statutes, is created
286 to read:

287 373.407 Memorandum of agreement for an agricultural-
288 related exemption.--No later than July 1, 2006, the Department
289 of Agriculture and Consumer Services and each water management
290 district shall enter into a memorandum of agreement under which
291 the Department of Agriculture and Consumer Services shall assist
292 in a determination by a water management district as to whether
293 an existing or proposed activity qualifies for the exemption in
294 s. 373.406(2). The memorandum of agreement shall provide a
295 process by which, upon the request of a water management
296 district or an affected person engaged in the occupation of
297 agriculture, silviculture, floriculture, or horticulture, the
298 water management district and the Department of Agriculture and
299 Consumer Services shall conduct a review as to whether an
300 existing or proposed activity qualifies for an agricultural-
301 related exemption in s. 373.406(2). The memorandum of agreement
302 shall provide processes and procedures for the conduct of the
303 review, including the issuance of a recommendation by the
304 Department of Agriculture and Consumer Services.

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

307 On page 7, line 20, remove all of said line and insert:

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308 state interest; amending s. 70.001, F.S.; reducing the
309 period within which an owner of agricultural land must
310 provide notice of a claim prior to filing an action
311 against a governmental entity regarding private property
312 rights; amending s. 163.3162, F.S.; providing for
313 application for an amendment to the local comprehensive
314 plan by the owner of land that meets certain provisions of
315 the definition of an agricultural enclave; providing
316 requirements relating to such applications; exempting
317 certain amendments from specified rules of the Department
318 of Community Affairs under certain circumstances; amending
319 s. 163.3164, F.S.; defining the term "agricultural
320 enclave" for purposes of the Local Government
321 Comprehensive Planning and Land Development Regulation
322 Act; creating s. 259.047, F.S.; providing requirements
323 relating to the purchase of land on which an agricultural
324 lease exists; amending s. 373.0361, F.S.; providing for
325 recognition that alternative water-source options for
326 agricultural self-suppliers are limited; amending s.
327 373.236, F.S.; requiring water management districts to
328 inform landowners of the option to obtain certain
329 consumptive use permits; amending s. 373.2234, F.S.;
330 conforming a cross reference; creating s. 373.407, F.S.;
331 providing for memoranda of agreement regarding
332 qualification for agricultural-related exemptions;
333 providing effective dates.

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